United States Court of Appeals

for the Second Circuit

APPENDIX

76-1317

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United States Court of Appeals

FOR THE SECOND CIRCUIT

Docket No. 76-1317

UNITED STATES OF AMERICA,

Appellee,

—v.—

GENE LOY CHU and KUO PING YU,

Appellants.

ON APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

APPELLANT CHU'S APPENDIX

Volume II—Pages A-789 to A-1446

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TABLE OF CONTENTS

	PAGE
Relevant Docket Entries Under Rule 30(a)	A-1
Indictment	A-4
Judgment and Order of Probation Appealed From	A-14
Excerpts of Testimony from Trial Below	A-15
Government's Opening Statement	A-33
Defendant Chu's Opening Statement	A-53
Defendant Fong's Opening Statement	A-63
Witnesses for Government:	
Richard T. Guthrie:	
Direct	A-65
Cross	A-79
Redirect	A-86
Recross	A-87
Wun Chiu Fan:	
Direct	A-92
Cross	A-131
Redirect	A-165
Mildred Miranda:	
Direct	A-180
Cross	A-208

PAGE

Redirect A-227, A-231

Recross A-230

Michael William Cutler:

Direct A-239

Cross A-253

Francesca Torres:

Direct A-254

Cross A-308

Redirect A-368

Recross A-369

Mary Louise Griffith:

Direct A-370

Cross A-380

Jan Jong Jout:

Direct A-383

Cross A-435

Carmen Miranda:

Direct A-457

Cross A-539

Redirect A-561

Virginia A. Miller:

Direct A-569

Cross A-580

	PAGE
Elizabeth Teresa Hernandez:	
Direct	A-584
Cross	A-615
Barbara Delores Harris:	
Direct	A-649
Cross	A-671
Redirect	A-686
Recross	A-687
Imgard Cruz:	
Direct	A-695
Cross	A-725
Redirect	A-753
Recross	A-754
Yeung Yau Choi:	
Direct	A-755
Cross	A-789
Redirect	A-811
Gene Loy Chu:	
Direct	A-854
Robert Chase:	
Direct	A-879
Cross	A-881

PAGE

Gene Loy Chu: (resumed)

Direct A-882

Cross A-924

Redirect A-1096

Recross A-1100

Gary Hittelman:

Direct A-1103

Government's Summation A-1175

Defendant Yu's Summation A-1233

Defendant Fong's Summation A-1238

Defendant Chu's Summation A-1247

Government's Rebuttal Summation A-1260

Court's Charge to Jury A-1303

Exhibits for Government:

9B—I-130 Petition of Francesca Torres Hu .. A-1434

16B—I-130 Petition of Mildred Miranda Fan .. A-1436

24B—I-130 Petition of Carmen Miranda Jout .. A-1438

32B—I-130 Petition of Elizabeth Hernandez Chang A-1440

41B—I-130 Petition of Imgard Cruz Yeung ... A-1442

Exhibit for Defendant:

Excerpt of Transcript of CBS Evening News on May 8, 1976 ..... A-1444

AFTERNOON SESSION
2:10 p.m.

(In open court; jury present)

Y A U C H O I Y E U N G resumed.

CROSS-EXAMINATION

BY MR. FLEMING:

Q Mr. Yeung, my name is Peter Fleming, and together with Mr. Sprizzo I represent Gene Chu, the lawyer. You testified that there came a time that you met Mr. Chu with a Mr. Lau?

A Yes.

Q Am I correct that Mr. Lau is of Chinese birth?

A Yes, he is a Chinese.

Q Am I correct that Mr. Lau himself married an American citizen?

A This I am not clear, because I do not know him that well.

Q Did you tell immigration that you were introduced to Mr. Chu by Mr. Chung?

A Yes. I told them that it was a Mr. Chung Wing who introduced me to Mr. Lau and Mr. Lau introduced me to the lawyer.

Q Did you tell immigration that Mr. Chung Wing

had a good marriage?

A It is not Chung Wing.

Q Is it Mr. Lau that has the good marriage?

A According to Chung Wing, yes.

Q That was your understanding?

MR. KINGHAM: Objection, your Honor.

THE COURT: He may answer.

A I don't even know Chung Wing too well, so I don't know whether it is a happy marriage.

Q Were you told that Mr. Lau was still living with his wife?

A Yes.

Q Were you told that Mr. Lau had obtained permanent residence?

A I don't know him well, so I am not clear.

Q Were you told?

MR. KINGHAM: Objection to what the witness was told, your Honor.

THE COURT: Sustained.

Q You testified that Mr. Chu told you that you would have to live together with the woman you married, is that correct?

A Yes --

MR. FLEMING: Could I have a yes or no,

if your Honor please?

THE COURT: Maybe this is a yes or no.

MR. FLEMING: That's what I can't tell.

A Yes, this is what Mr. Chu said, I have to stay with that woman.

Q You have to live with the woman you married?

A To live in the same house, but not to have relationship with each other.

Q Sexual relationship?

A Yes, nothing else.

Q You were allowed to talk to her?

A Yes, I can talk with her, but I don't know what you mean by talking with her.

Q You were allowed to see and hold her child?

A Yes, I can carry her child.

Q And in fact you did see and hold her child?

A Most of the time when I am off, on my off day, I stayed home and I look at the child, I look after the child.

Q You took care of the child?

A This is because we are friends, we are mutual friends, so as a friend.

Q Did you become friendly with the child?

A Yes, very friendly.

Q In fact, the child called you "dada," didn't he?

A No, he doesn't know how to talk. He doesn't call me anything.

Q Did you once change the child's diapers in Mr. Chu's office?

A This I can't recall clearly, but I don't change his diapers. Maybe carrying him, why, Imgard changed his diapers.

Q You bought Imgard a wedding ring for $171?

A Yes, because they told me that I have to --

Q No, just yes or no, if your Honor please

THE COURT: All right, "Yes" --

Q I will take the answer. "Yes," because why?

A Yes.

Q At Christmas time you bought Imgard a present?

A Yes.

Q You also bought the child a truck for Christmas, didn't you?

A No, I did not buy it for the kid. That's the story created by me and Imgard.

Q Did Mr. Chu tell you to tell immigration that you had bought the child a truck?

A No, because on that day we did not prepare for this questioning, for this answer. But I don't know how come we both thought of the same answer.

Q You and Imgard thought up to tell immigration that you bought the child a truck, is that right?

A We did not think about it or discuss it together. It just happened that we might have seen the child playing with the truck, and since we have been interviewed separately, we just happened to mention the truck.

Q Mr. Yeung, did you testify just a very few minutes ago that the story of giving the child a truck was a story that you and Imgard had made up together? Did you so testify just a few minutes ago?

A When? What period of time?

Q Five minutes ago in this courtroom.

A You mean now, just after lunch or before lunch?

Q Just two or three or four minutes ago.

A What I meant was --

Q No. Did you so testify?

THE COURT: The record will reflect that.

MR. FLEMING: I will withdraw it.

Q On the day you were married, did you go back to Mr. Chu's office?

A Yes.

Q Did not Mr. Chu ask you and Imgard questions and take down your answers?

A After the marriage, we just gave him the certificate.

Q Did he not ask you questions about your name and your address and where you had been born?

A After marriage, no, because he had already known.

Q He had already asked you those questions?

A He had already asked that before, otherwise how does he know my surname.

Q Did he also ask you either on the day of the marriage or before where you were going to live?

A When I first met him, he did ask me where did I live.

Q After you were married, didn't he ask you and

Imgard where you and Imgard were going to live?

A Yes, he did ask me.

Q And he wrote that down?

A Yes, he did.

Q You testified about Mr. Chu coming to Connecticut in August in August of 1975, late in the evening, to speak to you. Do you recall that testimony?

A I did not say anything in August, but I know it was last year.

Q The time he came was last summer when you were at Cobs Mill Inn; is that right?

A Yes.

Q Were you divorced from Imgard at that time?

A At that time I did not start the divorce.

Q You were still living with her, were you not?

A No. After August I moved out.

Q When Mr. Chu came out to see you at the Cobs Mill Inn, were you not still living with Imgard?

A Yes, together.

Q Do you know Mr. Hittelman?

A You mean when I know him?

Q No. Do you know him?

A When he came to check me, that's when I know him.

THE COURT: He knows him.

MR. FLEMING: Your Honor, could --

THE COURT: Obviously he does.

MR. FLEMING: I know, but I have to make a record, your Honor.

Could Miss Moy just instruct him -- I am entitled to ask him the question.

THE COURT: The answer is "Yes."

Q Do you know Mr. Candemeres?

A Yes.

Q They both work for Immigration?

A Yes.

Q They interviewed you on August 18, 1975?

A I cannot recall the exact date, but I know that was the day they questioned me.

Q They questioned you after Mr. Chu had spoken to you at the Cobs Mill Inn; is that correct?

A Yes, that's correct.

Q They questioned you here in New York on West Broadway?

A Yes, West Broadway, not Westport.

Q Then the next day did you come over here to the Court House and meet Mr. Kingham?

A They did bring me to see Mr. Kingham.

Q Did you testify before the grand jury with

Mr. Kingham asking you questions?

A Yes.

Q Isn't it correct that when you testified before the grand jury you were still living with Imgard?

A On that day, yes, but then the following week I had already moved out.

Q So you moved out from Imgard after you had spoken to Mr. Hittelman and after you testified in the grand jury?

A Yes.

Q When you spoke to Mr. Hittelman and Mr. Candemeres of the Immigration, did they tell you that you were in some trouble?

A No. They had found out that I had been into a forced marriage.

Q The answer is no?

THE COURT: The answer is, "No."

Q Did they tell you that they were trying to make out a case on the attorney, Mr. Chu?

A Yes, they did.

Q Did you testify this morning that at your second meeting with Mr. Chu Mr. Chu told you that he had not made any promises at the first meeting because he was worried that you had been sent to investigate him?

A Yes.

Q Did you tell that to Mr. Hittelman when you were interviewed by Mr. Hittelman and Mr. Candemeres?

A I did mention it to him.

MR. FLEMING: Do You want to stipulate, Mr. Kingham, that it does not appear in the statement?

MR. KINGHAM: I will agree that it does not appear in the statement -- of August 18?

MR. FLEMING: That's the only statement, isn't it?

THE COURT: Is that a Q and A?

MR. KINGHAM: It is not, your Honor.

Q Did you testify this morning that when you met Imgard at Mr. Chu's office for the first time Tracy, Fran and an unknown man were there?

A Yes.

(Continued on next page.)

Q Did you tell that to Mr. Hittelman and Mr. Candemeres when they interviewed you?

A I didn't mention it to him.

MR. FLEMING: Can we have a stipulation, Mr. Kingham, that it does not appear in the statement?

MR. KINGHAM: I have no objection to stipulating that the question that Mr. Fleming just put, with respect to a certain answer that does not appear in the statement, does not appear in the statement. Put it that way.

Q Didn't you tell Mr. Hittelman that "Two or three days later I returned to Gene Chu's office as agreed and was introduced to a girl in his office seated holding a child"?

A At that time I said a lot of things, but I do not know which part is important, but I know I said a lot of things, but I cannot recall clearly whether I said this or not.

Q Let's talk about what is important. Did you testify this morning that Mr. Chu, on two or three occasions, told you and Imgard as to how to make up a story as to how you met?

A Yes, I did.

Q Did you testify this morning that on January 8,

1975 Mr. Chu asked again how you had met Imgard, and that Mr. Chu had said, quote unquote, this is an important question?

A Yes.

Q And eight months later in August, 1975 did you tell Mr. Hittelman and Mr. Candemeres that Mr. Chu had told you and Imgard how to make up a story as to how you met?

A Yes.

Q And when you told Mr. Hittelman that, did he write it down?

A As I was talking he was writing, but there is a lot of other questions that didn't occur in my mind.

Q When Mr. Hittelman was finished writing, did you have the statement read to you?

A Yes.

Q And there was a Chinese interpreter there, wasn't there?

A Yes.

Q And you signed that statement, "Brian Yeung," is that right?

A Yes, that's my name here.

Q And it was given under oath, was it not?

A Yes, under oath.

Q And you read that this statement was a true -- you were told that this statement is a full, true and correct record that was read to you, is that right?

A Yes, it's the truth.

Q And on your oath do you say thatyou told Mr. Hittelman thatMr. Chu had told you to make up a story about how you and Imgard met?

A Yes. I said that.

MR. FLEMING: Is it in the statement, Mr. Kingham?

MR. KINGHAM: Your Honor, I'm not the witness here.

THE COURT: He's asking you to stipulate that it isn't there.

MR. KINGHAM: I will agree that it does not appear in the statement that was written by Mr. Hittelman on August 18, 1975.

THE COURT: All right.

MR. KINGHAM: I might also ask your Honor that in questioning as to whether or not this was a full, true and correct record, that the entire statement in which those words appear be read to the witness.

MR. FLEMING: That's fine.

THE COURT: May I see it.

MR. FLEMING: I have no objection.

MR. KINGHAM: The fourth line, your Honor.

THECOURT: You want that read to the witness?

MR. KINGHAM: Just so that the --

THE COURT: You can do that on redirect.

MR. KINGHAM: Just so the record is complete, I think it is misleading.

MR. FLEMING: I will read it in English, your Honor. I have no objection.

THE COURT: He may do that on redirect.

MR. FLEMING: I don't want to mislead anybody.

THE COURT: That's up to you.

MR. FLEMING: "I have read or have had read to me, the foregoing statement consisting of eight pages. I state that the answers made therein by me are true and correct to the best of my knowledge and belief, and that this statement is a full, true and correct record of my interrogation on the date indicated by the above named officer of the Immigration and Naturalization Service. I have initialed each page of this statement (and the corrections noted on pages --" and I cannot read the number.

MR. KINGHAM: Thank you, Mr. Fleming.

MR. FLEMING: Have I read correctly?

MR. KINGHAM: Yes.

MR. FLEMING: Signed Brian Yeung.

A Yes.

Q One other thing on this statement, did you tell Mr. Hittelman or Mr. Candemeres that you told Mr. Chu that you would not marry Imgard because she had a child?

A I did say that because she has a child and I was reluctant, but he say it would help my case.

MR. FLEMING: Can I have that stricken?

THE COURT: Read the question.

(Record read)

THE COURT: The jury will disregard everything after the word "reluctant" as being non-responsive to the question.

MR. FLEMING: Can I have a stipulation, Mr. Kingham, that that does not appear in the statement?

MR. KINGHAM: I will agree to that, your Honor.

A Because at thattime --

THE COURT: Wait for a question.

Q Mr. Yeung, did the immigration and naturalization -- did Mr. Hittelman or Mr. Candemeres

suggest to you that youget a divorce from Imgard?

A No, they didn't tell me to, but I know that I have to get a divorce.

Q Did you learn that from them?

MR.KINGHAM: Objection, your Honor. Asked and answered. The witness has said thatthey didn't tell him to.

MR. FLEMING: It's a different question. His answer was he knew he had to do that, and I'm asking if he learned it from --

THE COURT: He may answer.

A No, because at that time I know that this is not going to go through and I want to have a divorce in case I want to get married in Hong Kong.

Q Did either of the immigration officers tell you that the case would be better if you divorced Imgard?

THE COURT: By that you mean the case against Mr. Chu?

MR. FLEMING: Yes.

A They didn't.

MR. FLEMING: Do you have the originals of these two letters? (Addressing Mr. Kingham)

(Defendant's Exhibit F was marked for

identification)

(Defendant's Exhibit G was marked for identification)

BY MR. FLEMING:

Q Didn't you have conversations with Mr. Hittelman and Mr. Candemeres about divorcing Imgard?

A I did make a phone call to inform him.

Q Did they tell you that the sooner the better?

A They didn't say that.

Q Did you write the letter which is Defendant's Exhibit F for identification?

A Yes, I did.

Q Is that a letter to Mr. Hittelman and Mr. Candemeres?

A Yes.

MR. FLEMING: I offer it, your Honor.

MR. KINGHAM: No objection.

(Defendant's Exhibit F was received in evidence)

Q I show you Defendant's Exhibit G for identification. I'll ask you if this is a letter which you wrote to Mr. Hittelman.

A Yes. This is my second letter to him.

Q Yes.

MR. FLEMING: I offer it, your Honor.

MR. KINGHAM: No objection.

(Defendant's Exhibit G was received in evidence)

(Defendant's Exhibit H was marked for identification)

Q Do you remember the day when you met Mr. Hittelman and Mr. Candemeres -- do you remember the date when you met Mr. Hittelman and Mr. Candemeres and they interviewed you?

A No, I cannot recall.

Q I show you H for identification. I ask you if that refreshes your recollection as to the date that they interviewed you.

A August the 18th.

Q 1975?

A Yes.

MR. FLEMING: May I read Exhibit F, your Honor?

THE COURT: You may.

MR. FLEMING: Members of the jury, this is a letter, "Dear Mr. Gary Hittelman, Mr. P. Candemeres," dated August 31, 1975.

(Mr. Fleming read Defendant's Exhibit F

to the jury)

MR. FLEMING: Your Honor, there are marks around the word "divorce."

THE COURT: They are quotation marks.

MR. FLEMING: I didn't want to characterize it.

(Mr. Fleming continues to read from Defendant's Exhibit F in evidence to the jury)

Q Mr. Yeung, can you read this sentence "About the divorce"?

A "About divorce."

Q Why did you put quotation marks around the word divorce?

A What I meant was I was paying particular attention to this word, and then I used this quotation.

Q And you wanted them to know that?

A One way is to let them know and the second thing is because I'm in the habit of using quotations when I think of something important.

Q That divorce was important, wasn't it?

A Yes, because I was --

Q Yes is an answer.

A -- I was in --

Q You hired another lawyer, didn't you?

A Yes.

Q Mr. Ipsilanti?

A Yes.

(Continued on next page)

Q And his fee was $1500, wasn't it?

MR. KINGHAM: Objection, your Honor. Relevance.

THE COURT: Sustained.

MR. FLEMING: It is relevant, your Honor, please on the --

MR. KINGHAM: I object to the colloquy in front of the jury.

THE COURT: Do you want to approach the side bar?

MR. FLEMING: If your Honor cares to.

THE COURT: It's up to you.

(Side bar.)

MR. FLEMING: I think it is very relevant because of the implications made with regard to the fees that Mr. Chu was charging.

THE COURT: There is no implication here of overcharging.

MR. FLEMING: I think the Government has --

MR. KINGHAM: There certainly is an argument on that, your Honor, considering what little Mr. Chu was supposed to do for his thousand dollars. What some other lawyer may have charged in connection with a divorce matter under New York State law has absolutely no relevance

to what Mr. Chu may have charged with respect to filing an I-130 petition and going to an interview.

THE COURT: I agree.

MR. FLEMING: If they are not going to argue that the fee was excessive --

THE COURT: He says that they are. But what was charged for a divorce proceeding, which is an entirely different job of work, is irrelevant.

MR. KINGHAM: That may be excessive as well.

MR. FLEMING: My offer is as stated.

THE COURT: I sustain the objection.

(Open court.)

MR. FLEMING: May I read Defendant's Exhibit G?

THE COURT: You may.

MR. FLEMING: This is a letter of October 19, 1975, addressed to "Dear Mr. Hittelman," signed by Mr. Yeung.

(Mr. Fleming read Defendant's Exhibit G to the jury.)

BY MR. FLEMING:

Q Who is Mr. Zato?

A He was an interpreter.

Q An Immigration interpreter?

A Yes.

Q An Immigration interpreter?

A Yes.

Q And you have been granted voluntary departure?

A Yes.

Q And that means you can reapply again for entry into the United States?

A I believe so.

Q And you want to live in the United States, don't you?

A Can you please repeat the question?

Q I say you want to live in the United States, don't you?

A Yes, I think so.

MR. FLEMING: I can't blame him for that. Thank you. I have nothing further, your Honor.

MR. CONCANNON: No questions, your Honor.

MR. BARRY: No questions, your Honor.

MR. KINGHAM: Can I have a moment, your Honor?

THE COURT: All right.

REDIRECT EXAMINATION

BY MR. KINGHAM:

Q Whose idea was it for you to get divorced, Mr. Yeung?

A This is my very own idea.

Q Do you recall Mr. Fleming, the gentlemen who just asked you questions, asked you some questions concerning your conversation with Mr. Chu with respect to your living together with Imgard; do you recall that Mr. Fleming asked you some questions about that conversation?

A Can you please repeat the whole question at one time, please?

Q Do you recall that Mr. Fleming asked you questions about the conversation you had had with Mr. Chu which concerned living together with Imgard?

A Yes, he did.

Q At the conversation you had with Mr. Chu concerning living with Imgard, did Mr. Chu say why you had to live with Imgard?

A He say because the Immigration would check up.

Q Mr. Yeung, let me show you what is Government's Exhibit F in evidence, which is the letter you wrote to Immigration on August 31, 1975?

A Yes, I remember.

Q Prior to sending that letter, had you received any instructions from Mr. Hittelman or Mr. Candemeres about keeping in touch with them?

A They told me that wherever I went I must inform

them.

Q Calling your atyention to the words "I thank again your kindness," what did you mean by that?

A It doesn't have any meaning except that that is the way I felt and so I just wrote it down.

MR. KINGHAM: I have no further questions.

RECROSS EXAMINATION

BY MR. FLEMING:

Q Did Mr. Hittelman and Mr. Candemeres tell you to keep them advised as to the way your divorce was going?

A They did not ask me to, but I wanted to inform them.

MR. FLEMING: Nothing further.

MR. KINGHAM: I have no redirect, your Honor. Thank you.

THE COURT: Thank you.

(Witness excused.)

MR. KINGHAM: Your Honor, at this time the Government would offer in evidence Government's Exhibits 55, 56 and 57 for identification respectively as 55, 56 and 57.

MR. FLEMING: Is this the last --

MR. KINGHAM: I would rather not have this colloquy in front of the jury.

MR. FLEMING: I thought if Mr. Kingham was resting, with the exception of this, your Honor, we might argue outside of the jury's presence.

MR. KINGHAM: That might be appropriate.

THE COURT: Do you want to argue about the admissibility of the exhibit?

MR. FLEMING: At least in part, yes.

THE COURT: All right.

We can take our afternoon break now. Ten minutes.

(Jury excused.)

MR. KINGHAM: Your Honor, so the Court knows what the exhibits are, the exhibits are certified copies of the defendant's joint personal income tax returns for the years 1972, 1973 and 1974.

MR. FLEMING: Your Honor, I don't see any relevance to the '72 return. There is no income that I have heard of generated in '72.

With regard to '73 and '74, I assume, your Honor, it is Mr. Kingham's theory that income reported would be measured against income received in connection with these marriages and the jury can make some assessment as to the financial stake Mr. Chu may or may not have had the marriages.

I think that can be accomplished simply by stipulating to what his reported income was without him using an entire tax return.

I object to the introduction of the entire tax return for that purpose when the only purpose of the evidence at all is to equate whatever fees Mr. Chu may have received in connection with these marriages with what his total income was for the year.

MR. KINGHAM: If I may, your Honor, I have a memorandum prepared on this, if the Court would care to review the memorandum, but I can give you my argument orally, first.

The Government's position is this:

First of all, with respect to the '73 tax return -- and I am sure the Court recognizes that most of the transactions we have are in 1973 -- our evidence is so far that Mr. Chu received at least $2000 in 1973 in connection with the marriages, and by inference from the citizen spouses who testified, although the husbands did not, I think it can be inferred that he received other money in connection with those marrages as well.

A defendant reports gross receipts from his law practice of no more than approximately $10,000 in each of those years.

Mr. Fleming, in his opening argument, argued that the jury might find that this was done for what could be called a piddling amount of legal fees, and certainly $2000, which would be 20 per cent of the defendant's gross receipts from his law practice, is hardly any piddling amount.

I think when you add the inference that there are other moneys involved, we are talking about a goodly portion of the defendant's income from his law practice.

Secondly, as to the 1974 return. the figures are generally the same, and there, of course, it is a thousand dollars that Mr. Yeung gave him in 1974, which we would argue again is not a piddling amount of legal fees in relation to the total gross receipts from his law practice.

These returns also reflect a substantial capital loss carryover of a thousand dollars in 1973 and 1974. The loss was generated in 1972 when the defendant, according to his own tax return, sustained losses of approximately $65,000 in the stock market.

The Government's argument is this:

At least it may be inferred from that that the defendant suffered severe financial reverse in 1972; that he was in need of cash in 1973 and 1974, in order

to cover his cash losses, or at least his losses that he might have sustained in the stock market.

I think it is highly relevant on the issue of motive, and, as I say, I have a memorandum to back that up.

The '72 return explains the losses, but there is attached to the '73 and '74 returns a schedule from the '72 return explaining the stock market losses from the year before.

The Government submits that those losses are highly relevant in the context of this case.

(Continued on next page.)

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THE COURT: Are you going to make an argument that the government has a weak case because the amounts that Mr.Chu is accused of receiving for arranging these marriages is trifling?

MR. FLEMING: I said something to that effect in my opening, your Honor. Whether I will argue it or not, I don't know. But I am not going to discount the fact that I will. That is why I am willing to stipulate to gross income. I think it is relevant on that, but I don't think it is relevant to put in the whole tax return.

THE COURT: I suppose you have got to have the '72 tax return to show the tax loss.

MR. FLEMING: I see no relevance to that. That means every time a man has had a bad year there is a motive tocommit a crime. That is not rational, your Honor.

THE COURT: If you say the amount is piddling, piddling depends on the financial condition of the man. It might be piddling to Rockefeller but not to somebody who was wiped out in the stock market.

MR. FLEMING: I object to the relevance of 1972. What I have no objection to is stipulating what Mr. Chu's gross income was for 1973, and if you

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want for 1974, although there was only one marriage in '74, so I don't barely see the relevance there.

THE COURT: Insofar as the '73 and '74 returns are concerned, the stipulation of his gross income for the practice of law --

MR. FLEMING: No, gross income, your Honor.

THE COURT: Gross income, would suffice.

MR. KINGHAM: I object to that, and I will say why. This defendant has several businesses. He has a business as an attorney at law from which he reports gross receipts of approximately $20,000. Presumably this money came in through the law practice.

He also has businesses as an insurance man, for which he reports an income of approximately $4500 or $5000 a year. If we are talking about amounts of legal fees and money generated in the law business, it is important to separate those businesses.

THE COURT: I think that's fair.

MR. KINGHAM: I have no idea what the source of his other income is.

MR. FLEMING: I think that is incorrect, your Honor. The questionof motive, there is a man making money, he needs to have it, it doesn't matter what his other sources of income are.

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You mentioned Rockefeller. He is making whatever he makes as govenor of the State of New York, but that is not what you are relying on. If you are defending Nelson Rockefeller, you would say he earns $300 million. You can't break up a man's income.

The question is what his income was and whether this was enough money for him to throw his life away.

THE COURT: So I can evaluate this, what are we talking about in terms of numbers? What was his total or his overall gross income?

MR. FLEMING: I don't know, Judge.

MR. KINGHAM: Your Honor, they are on the returns. But what is significant about these returns is that we are talking about, for example, 1973, which is really the key year, having an adjusted gross income of only $12,500. That's adjusted gross income after having calculated both gross receipts from both of his businesses and subtracting there from all the deductions to which he would be entitled or at least which he claimed on the return.

So then we are talking about adjusted gross income of $12,000 --

THE COURT: What's the objection to the returns of '73 and '74, Mr. Fleming?

MR. FLEMING: I think, Judge every time you put a tax return in evidence, it creates a snarl in the case that's just irrelevant. That is how I feel. It is prejudicial. I don't think anything on that return is material except what Mr. Chu reported as having earned that year.

MR. CONCANNON: Your Honor, if I may say, I do have an interest in not seeing the record cluttered here, and, of course, there is a conspiracy charged, the jury is going to have enough papers. It seems to me that Mr. Chu through counsel is offering to stipulate to the essential things that the government needs to rebut the argument that they expect Mr. Fleming to make.

Why clutter the record with a tax case? It may be interesting, it may possibly --

THE COURT: I will say this, Mr. Fleming, ifyou will stipulate both the income from the practice of law and the total gross income for each of those two years, I will exclude the returns themselves.

MR. FLEMING: Fine, thank you, your Honor.

THE COURT: With respect to '72, we have a different problem. Will you stipulate that there was a long-term capital loss of $65,000?

MR. KINGHAM: Approximately, your Honor, it

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is on the return. 65 and change. According to the 1972 return, your Honor, the total capital loss is $65,072.35, according to the defendant's schedule B on his 1972 return, all of which was incurred in 1972.

MR. FLEMING: Your Honor, I object to the '72 return because I think evidence with regard to investment in the stock market, etc., is highly prejudicial.

THE COURT: The question is whether you are willing to stipulate that he had that capital loss in order to keep the return out.

MR. FLEMING: If your Honor is ruling that evidence with regard to his '72 return is admissible, I am objecting to that. If your Honor is overruling my objection to that, I will so stipulate.

THE COURT: If you reserve the right to argue there was no motive to do this, then I think it becomes relevant that he had a substantial capital loss in 1972. I will keep the return out if you are willing to stipulate the capital loss, and you can reserve your right to argue --

MR. FLEMING: That's what I will do. I think what slight relevance it has is more than outweighed by its prejudicial impact. By the jury sitting and --

THE COURT: I think if anyone is prejudiced, I think the jury is inclined to be sympathetic with somebody who has lost $65,000 in the stock market. Having done so myself, I am sympathetic.

Anything further, Mr. Kingham?

MR. KINGHAM: No. If we can have the few minutes of the break for Mr. Fleming and me to work out the terms of the stipulation, we will inform the Court before the jury comes back of the stipulation.

THE COURT: What I am really asking is, once the stipulation is taken care of, will the Government rest?

MR. KINGHAM: I am prepared to rest.

THE COURT: Can you give us an idea of how long the defendant's case is expected to take, Mr. Fleming?

MR. FLEMING: Your Honor, if we go forward, and I think we are, although I never know myself until I say those magic words, I do not think our case on direct examination should take more than two hours, total.

THE COURT: Are you going to have a case, Mr. Concannon?

MR. CONCANNON: Your Honor, at this time I expect that I am. Of course, I cannot be sure. If I do, I can't imagine the direct being longer than twenty minutes.

THE COURT: How about you, Mr. Barry?

MR. BARRY: No, your Honor.

THE COURT: No case?

MR. BARRY: No.

MR. CONCANNON: Your Honor, may I make a suggestion?

In the interest of saving time, could not the terms of this stipulation be worked out at the end of the day and the Government rest subject to being able to introduce that stipulation?

THE COURT: I think the stipulation is going to be brief anyway, so there is no problem. We have already taken a little over ten minutes for the break, but I will give you another five or ten minutes, if you want to work

the stipulation out.

MR. KINGHAM: After that I will be prepared to rest on the record. Of course, we have motions to dispose of.

THE COURT: If you want to make the motions now subject to the addition of this one item of evidence, I will receive them.

MR. KINGHAM: I'd have no objection to that, your Honor.

(Recess.)

MR. FLEMING: Your Honor, on behalf of the defendant Chu, we move to dismiss all counts of the indictment on the grounds that the Government has failed to make a prima facie case.

THE COURT: That motion is denied.

MR. FLEMING: I'd move specifically with respect to Count 14, your Honor. Count 14 charges, if I can understand it, that Mr. Chu somehow or other threatened Miss Hernandez if she did not go down and submit to an I-130 interview.

THE COURT: Do you want to comment on that, Mr. Kingham?

MR. KINGHAM: Your Honor, I do. I presume that the defense motion for a judgment of acquittal is a

Rule 29 motion aimed at that count, and my comment would this.

The testimony of Miss Hernandez is that she was threatened initially by her husband Perry Chang, that she would be harmed or she would be hurt if she did not go through with it.

It is clear from the context of the meeting that they had in Mr. Chu's office that Mr. Chu, Mr. Yu and Perry Chang were all trying to convince Elizabeth Hernandez to stick with it and go to Immigration. It is also clear from the context of the testimony that they were encouraging her to go through with it and tell lies because everybody knew that Perry Chang wasn't living with her up on 80th Street.

Subsequently, after she came back from a trip, I believe she said a week later, after her apartment had been broken into, she called Mr. Chu, informed him that she had been threatened on at least one occasion by Perry, and Mr. Chu's remarks were in substance, "Yes, I know how those Chinese are from that part of China. I wouldn't put it past him. What you should do is go through with it if you don't want him to carry out the threat," in substance is what he said. I believe that the testimony bears me out.

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It seems to me that under those circumstances the allegations in Count 14 are certainly made out prima facie on this evidence.

MR. FLEMING: I see no joining in the threat. She testified flatfly on cross-examination that Mr. Chu did not threaten her in any way. If the argument is that he is a participant with Perry Chang in making the threat, there is no evidence of any joinder of purpose or joinder or intention. There is just no evidence. I don't know how it can be an obstruction of justice to confirm that a threat has been made.

MR. KINGHAM: Your Honor, the confirmation is, "If you don't go through wit it, you are going to be hurt."

She testified, honestly so, that Mr. Chy did not threaten her directly, but what he did do was endeavor to influence and intimidate here into going through with the interview at Immigration.

THE COURT: You have a situation here where A says to B, "If you don't go through with this, you are going to be hurt," and B goes to C and reports this, and C says, "I think he really means it because he is a vicious person.

That does not mean that C is threatening B. It only means that C is saying, "I think A means it when

he threatens you."

MR. KINGHAM: But C also says, "I think you better go through with it. There is no way to stop him."

THE COURT: That may be just good advice. It may be, even, advice that C hopes to gain by. It doesn't men that he had anything to do with instigating the threat or that he would have anything to do with carrying out the threat. I seriously doubt whether there is enough evidence to go to the jury on Count 14.

Is there anything you want to add?

MR. KINGHAM: There is not, your Honor.

(Continued on next page.)

THE COURT: I will dismiss Count 14. That is a directed verdict of acquittal as to that count.

MR. KINGHAM: I have motions as to some of the counts that may save Mr. Fleming the trouble.

THE COURT: All right. If he is going to move to withdraw them, that may save you some trouble.

MR. KINGHAM: First of all, in the conspiracy count, on page 3 of the indictment, the beginning of the overt acts --

THE COURT: All right, sir.

MR. KINGHAM: I would move to strike from the indictment Overt Acts A through D.

We have no evidence in the case about the Rodriguez-Ho marriage. Certainly those overt acts shoudl not go to the jury.

THE COURT: I assume you would not object to that, Mr. Fleming.

MR. FLEMING: No, sir.

THE COURT: All right. Those overt acts will be stricken.

MR. KINGHAM: In the same vein, I move to dismiss with prejudice Count 2 of the indictment, which alleges a false statement in connection with the Rodriguez-Ho marriage. Again there is no evidence as to that.

THE COURT: Any objection?

MR. FLEMING: No, sir.

MR. KINGHAM: Those are my motions, your Honor.

THE COURT: All right. That count will be stricken.

MR. FLEMING: Count 7 charges that Mr. Chu made a false statement with regard -- an I-130 with regard to the Cruz-Yeung marriage, that it was false with respect the residence and marital relation of the U. S. citizens.

Mr. Kingham has stated orally that obviously it was a valid marriage here under the Yago case, qua marriage, and that he is basing his allegation of falsity on the false statement counts on residence.

Cruz and Yeung's testimony this morning is clear that they were not -- they went and resided exactly where Mr. Chu said they were going to reside. So there is no evidence of falsity with regard to the Cruz-Yeung marriage.

I think Count 7 must be dismissed.

MR. KINGHAM: I have no objection to that, your Honor.

THE COURT: All right. Count 7 will be dismissed.

MR. FLEMING: With regard to Count 4, which

was the first count we had -- first evidence we had, Miranda and Fan.

Fan testified at page 1 -- Fan testified that Mr. Chu asked them where they lived on the day of the marriage -- page 125 -- and then Mildred told him Apartment 4-H, 2185 Valentine Avenue, and Fan did not contradict Mildred.

MR. KINGHAM: Your Honor, the testimony of Mr. Fan and Mildred Miranda must be taken together, of course, and the testimony taken as a whole with respect to their residence is that Mildred told Mr. Chu that that is where she would be living when she got back from Puerto Rico.

Furtheremore, this statement which bears Mr. Chu's signature in both places, says it was signed on August 8, 1973 when in fact the testimony is that it was signed on August 6, 1973, and that on August -- and that at that time, or prior to that time, these people certainly had not been living together at 2185 Valentine Avenue.

MR. FLEMING: I am told that notarization is not charged as an offense in the bill of particulars.

THE COURT: I didn't hear you.

MR. FLEMING: I am told that the notarization, if that is what Mr. Kingham is referring to as a false

statement, is not charged in the bill of particulars.

Even if it were, it seems to me the notarization is totally immaterial.

MR. KINGHAM: It seems to me it is probative because it shows that the defendant here was making a false statement as to when these people were in his office.

THE COURT: You mean Chu?

MR. KINGHAM: I'm sorry, Mr. Chu, as to when these people were in his office.

Furthermore, the gist of the I-130 is that the couple will reside together as husband and wife, and with regard to the Miranda-Fan marriage it is also clear that the defendant knew that they did not intend to reside together as husband and wife because he was the one who had introduced them under the suspicious circumstances involving the switch with the prior spouse and so forth.

All of that is probative of the defendant's knowledge at the time that this form was filed.

THE COURT: I will deny the motion with respect to Count 4.

MR. FLEMING: I would like to make a motion with regard to the false statement counts generally.

The Immigration people have testified that they

had a program called the I-130 interview. One of the witnesses, whose name I do not recall, said that every spouse application is subject to an interview. Where the representations made on the I-130 petition and the bona fides of the marriage are testified to, because of that, if your Honor please, I would submit -- because of that I argue that the statements with regard to present residence and future residence are immaterial to the determination that the agency makes with regard to whether or not permanent residence shall be granted.

There is no exception to the rule, according to the testimony; every spouse petition is subject to an I-130 interview, the purpose of which is to determine the accuracy of the representations made on the I-130, together with the general bona fides of the marriage.

I cannot see how in those circumstances the representations as to residence made on the I-130 can be considered to be material to the determination of the Immigration Service.

It is just clear evidence they do not rely on them.

MR. KINGHAM: First of all, it is obvious that you could not get your foot in the door if you did not file the I-130 petition first, and if it did not show that you

were living together at a certain address together with your spouse, you probably would not even get the interview.

I think that that clearly is the inference to be drawn here and that the key to the door is the I-130 petition and the representation is made up front at that time that these people are living together and presumably in a bona fide marriage, which is subsequently investigated.

Obviously, as Mr. Fleming hypothesizes, if you file a blank I-130 you probably would not even get interviewed.

THE COURT: I will deny the motion in that respect.

MR. FLEMING: I would like Mr. Sprizzo to speak briefly on the conspiracy count.

The obstruction of justice count with regard to Yeung is August 4, 1975. That can only relate to the testimony which Mr. Yeung gave about Mr. Chu coming to the Cobs Mill Inn in the summer of 1975.

First, I don't think that evidence constitutes an endeavor to corruptly cause a witness to tell lies. But putting that aside, it is necessary that the man be a witness, and there is no evidence in this case that

Mr. Yeung was a witness at the time of that meeting.

There was no subpoena outstanding so far as the record shows, and indeed I believe there was none. There was no -- not even a letter to Mr. Yeung saying, "We want to talk to you about a case."

Unless a person is a witness you cannot obstruct justice under 1505. I cite you the Vera case, which is in the Eighth Circuit.

That August 4th count has to go, even assuming that what Mr. Yeung said amounted to a corrupt endeavor to obstruct his testimony, it cannot constitute a violation of Section 1505 because Mr. Yeung at that time was not a witness.

MR. KINGHAM: Your Honor, the Government submits that in connection with that count, that is the August 4th count, it is directed toward the situation where Mr. Chu advised Mr. Yeung to make sure that because Immigration was going to be coming around, because they were now investigating, that he should be back at 2185 Valentine Avenue and, in essence, should make it look like he and Imgard were in a bona fide marriage.

I submit that in general it was clear to Mr. Chu that there was an investigation at that point involving the nature of the Yeung-Cruz marriage.

THE COURT: But he only urged that he move back in, or at least go home, whichever you want to call it, with Imgard that night and during the ensuing period.

Was it fair to contemplate, or fair to assume that he contemplated that there would be a further interrogation?

MR. KINGHAM: That is what he said, your Honor. I believe he told the witness that he should go back there because now Immigration is really going to be nosing around.

THE COURT: Nosing around is one thing. Moving back so that if they post a sentry outside the house they will see him going in and out, but that is not giving false testimony, is it?

MR. KINGHAM: No, it is not.

THE COURT: Within the contemplation of 1505.

MR. KINGHAM: Well, I will agree with Mr. Fleming that there is no evidence that there was an interview situation setup that Mr. Yeung was supposed to give false testimony at.

MR. FLEMING: That is jurisdictional, in my understanding of the law, your Honor. He has to be a witness.

THE COURT: Has to be a contemplated witness.

Was it fairly contemplated at that time that time that he was going to be called again and interrogated? That is what I am really asking.

MR. KINGHAM: I don't know that it is, your Honor.

THE COURT: All right. I will dismiss Count 13.

MR. FLEMING: Mr. Sprizzo will address you very briefly on the conspiracy count.

THE COURT: All right.

MR. SPRIZZO: I will be very brief.

We feel quite strongly, your Honor, that the Government has failed to prove the single conspiracy charged in the indictment.

I think the law is quite clear in this Circuit and elsewhere that for a charge of a single conspiracy to stand, the Government must establish that there was a core group of central conspirators whose minds met in an understanding way, and all the purposes of the conspiracy, at least enough to make them basically conspirators together as a core group, were effected.

That is the tezching of United States versus Borelli. I think it is the teaching of every case that the Second Circuit has decided.

We feel that the Government's evidence in this regard has failed. What the Government has established in this case is essentially the type of situation that was involved in Kotteakos.

You have Mr. Chu, who the Government has established by its evidence -- I think if you take the evidence in its most favorable light -- who is the center or hub of the conspiracy.

Mr. Chu has been shown to be connected with almost every transaction, virtually every transaction which they have proven in the indictment, or they allege in the indictmeng.

However,there has been no evidence in this case of any core group of conspirators in addition to Mr. Chu.

The marrying spouses, to wit: the Rodriguez' and the Yeungs and Perry Changs that we have seen referred to in the indictment are all obviously the spoke type people, which Kotteakos says is not sufficient; these are people who come together without any real links except the fact that they are using the same central source.

So I think their presence in the indictment -- the proof as to them must be disregarded on the question of whether or not there is a core group, which is a pre-

requisite to a finding of one single conspiracy of at least two conspirators.

Mrs. Fong and Mr. Yu, your Honor, there is not a shred of evidence, your Honor, that has been produced in this case that would tend to establish that Mrs. Fong had any knowledge whatsoever of the applications that were filed, or what Chu was doing or not doing with respect to the testimony of the witnesses before the Immigration & Naturalization Service.

I feel quite strongly -- I don't represent her -- but the evidence has totally failed to show anything like the knowledge of the purposes of the conspiracy and the participation of the purposes of the conspiracy, which would even make her a limited conspirator, much less a core conspirator.

As far as Mr. Yu is conerned the only evidence that the Government has brought forward on Mr. Yu is connection with one or two possible marriages at best, and maybe with respect to the Hernandez marriage would there be any evidence at all which would tend to show any connection with some of the activities which have been established by this evidence that Chu is alleged involved in.

So I think Yu's presence and Fong's presence in the indictment, under the standards which have been

established in this Circuit, has been shown by the Government's evidence to have been an insufficient participations with full knowledge in Mr. Chu's activities to qualify as a core conspirator, under the Borelli case.

So we really are left with one central figure, no inner core group of conspirators participating basically throughout the life of the conspiracy, and we have essentially a Kotteakos situation.

For that reason, the conspiracy count, which alleges one conspiracy, must be dismissed.

Now, I think, even if your Honor was to assume that there was some connection with respect to Yu with some of these transactions, and we don't think the evidence shows that, the fact of the matter is that at best Yu is shown to be connected with one marriage, and that is not enough to make out the central core group of conspiracy, which the rule requires to justify joinder.

We think the conspiracy count has to be dismissed because the Government has alleged one conspiracy, has not proved one conspiracy, and at best it has proved a central person, Gene Chu. It proved a lot of spokes; the marrying spouses who used Mr. Chu's services; it has proved that Gene Fong and Jimmie Yu might have brought people to Gene Chu, but there is no proof whatsoever --

I have been listening to this trial for three days, and even in the Jencks material is not there -- there is no proof whatsoever that Jean Fong had any knowledge of whether false statements were being filed.

There is a complete failure of proof on the question of whether or not she knew what Chu was or was not doing in prepring the witnesses for the Immigration & Naturalization Service; there is no evidence of conspiracy on her part.

As far as Yu is concerned, we submit likewise, there is no conspiracy at the center of this indictment. There is one person, and one person does not make out a conspiracy.

(Continued on next page.)

MR. KINGHAM: May I be heard?

THE COURT: Yes.

MR. KINGHAM: First of all, as the Court knows from the evidence, it is more than just Gene Chu, and he is not the only person in the core group. There are others as well.

There is, for example, Jimmy Yu. We can start with him. Jimmy Yu refers Mr. Jout to Mr. Chu. Jimmy Yu is present during all of the Jout conversations in which Mr. Chu points out that the spouses are not going to have to live together necessarily, they are just going to have to do it for appearances; that Carmen Mirdnda was a lesbian, that they could get divorced later and so forth.

Jimmy Yu then takes part in all of the Carmen Miranda transactions by filtering ~~money~~ from Mr. Jout up to Carmen Miranda while she is in New York and he's down in North Carolina.

Jimmy Yu subsequently solicits Carmen Miranda, do you have any more girls? She brings two girls down to Mr. Chu. She then joins the core group and becomes somebody who is doing more than being a spouse or gets married. Ultimately Lisa Hernandez is solicited. Money --

THE COURT: Solicited by whom, by Yu?

MR. KINGHAM: Solicited by Jimmy Yu through Carmen Miranda and subsequently married and introduced to Mr. Chu.

So the solicitation here is involved not only with Jimmy Yu, Carmen Miranda also comes into the core group, Jean Fong is there, she's out there soliciting, she gets $200 or $250 for everybody she brings in. We are talking here about a joint business, people introducing people to each other and to Mr. Chu for the purpose of defrauding the United States.

It seems to me that when these defendants are present during all the conversations when it's clear that the reason they are making introductions is for the purpose of getting these people married to defraud the United States into believing that they aregoing to live together, they are present during the conversations, they get paid money for making these introductions, it is clear that in this core group --

THE COURT: Does the record show that Jean Fong received any of the monies that she received in Chu's presence?

MR. KINGHAM: Yes, your Honor.

THE COURT: I believe that is true --

MR. KINGHAM: On at least two occasions she was paid in the office in Mr. Chu's presence. One witness testified she went outside and she paid Jean Fong on the way out, but I think there are two witnesses who testified they paid her inside the office.

In any event, I think it is clear, and certainly from the inferences that this evidence has drawn, that what you have here is Mr. Chu running in essence a ring, and at his level in the ring, not necessarily the spokes, but people coming and going from the core group at times, include Jimmy Yu, Jean Fong, later on Tracy, Carmen Miranda, and they include some other people who made introductions.

There was a Fan Chung referred to in the first testimony. So he's certainly not alone at that level ofthis conspiracy. Indeed, there are others at different levels. Those involve the spouses who got married.

Mr. Sprizzo says that there is no evidence that Jean Fong had any following, but Jean Fong wasn't paid $200 just for being there. She was paid $200 for her services in connection with getting these people married and she was present at the time thatall of these conversations took place in the marriages she was

involved in where Mr. Chu was advising these people of the circumstances under which they would or would not have to live together and the nature of the various spouses and whether or not they could be divorced later on. So if we talk about knowledge, it is clear that Jean Fong had knowledge and that she continued to act for pecuniary benefit even after she had knowledge of the nature and purpose of the conspiracy and I submit that puts her right inthe thick of it.

Mr. Yu's motive might not have been financial, it might have been just for friends, it is difficult to tell, quite frankly, from the evidence what his motive was, but it is also clear that he comes into the core group when he starts soliciting Tracy to bring in more girls as she subsequently does.

MR. SPRIZZO: Your Honor, if I may respond. The problem with Mr. Kingham's argument is that he's lost sight of the nature of the conspiracy he has alleged in this indictment. This indictment does not charge that these people were in the marriage business. All the evidence has referred to -- it is consistent with her being a matchmaker, which is a traditional and honorable profession in countries around the world, and there is no crime in getting people married.

Even if Mrs. Fong received a fee, it is no crime. This indictment is a very specific charge. It charges not a general conspiracy to defraud the United States, but in the government's theory of the case here, it charges a conspiracy to defraud the United States by obstructing the functions of the INS in two ways, by causing false statements to be filed with the INS and false testimony to be given to the INS.

The knowledge that must be shown is not knowledge that people were getting paid to be married, not knowledge that people were getting married for permanent residence, the knowledge which must be shown is knowledge that false statements were being filed and false testimony was being given.

There is no testimony on Jean Fong that establishes her knowledge with respect to the conspiracy charged. Everything he has said is besides the point, it is not the conspiracies charged.

As far as Jimmy Yu is concerned, your Honor, maybe with the possible exception of, I'm not even sure of this, the Hernandez situation, there is no evidence that establishes, or even permits an inference of any knowledge on Jimmy Yu's part as to the objects or purposes of this conspiracy which is alleged in the

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indictment. They are the only two people who could possibly quality as core people.

We don't dispute that the evidence shows that they were in the business of getting people married, and that they were in the business of helping people get married for purposes of staying in the United States of America, but that is not the charge. The charge is a conspiracy to defraud the United States by causing false statements to be filed and false testimony to be given.

There is no evidence in the record that supports -- certainly none as far as Fong, and I believe none as far as Hu, and even if it did support Hu's connection with one out of seven marriages, that would not be enough to make him a core conspirator. In the absence of that the indictment must be dismissed.

THE COURT: The Kotteakos problem and the Borelli problem that you are talking about are really problems that have to do with misjoinder and severance for a separate trial in order to prevent prejudice. That is not theproblem. We are way past that. The problem here is whether there is sufficient evidence to go to the jury to prove a conspiracy.

MR. SPRIZZO: With all due respect, your Honor is incorrect.

THE COURT: Jean Fong and Jimmy Yu were parties to that conspiracy. There is no question on the evidence that they undertook to and did find the girls who were willing to marry Chinese nationals to enable them to file for permanent residence. At least in the case of Jean Fong she received a finder's fee for locating these girls and bringing them to Gene Chu.

The only question which remains is whether there is enough evidence to go to the jury on the question of whether or not Jean Fong and Jimmy Yu could reasonably have anticipated that false statements were going to be made to the Immigration and Naturalization Service in connection with those I-130 applications.

I think that there probably is in that they realized that these girls were being found, being introduced to people and getting married immediately thereafter, they must have realized the chances that these marriages were going to succeed and become permanent were very, very small. They realized, further, that the girls were getting a substantial amount of money for this.

They must have realized, after the thing had gone on for a while, that every one of these marriages was resulting in divorce, they must have realized that

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the INS wasn't buying these marriages insofar as granting permanent residence was concerned.

I think there is at least sufficient evidence to let the matter go to the jury on whether or not they were aware that the conspiracy or the group had an illegal purpose. I am going to deny the motion with respect to count 1.

MR. KINGHAM: Thank you, your Honor.

Anything further before we bring the jury in?

MR. CONCANNON: Since this apparently is an appropriate time for arguing the rule 29 motions, I ask for a judgment of acquittal and I adopt the statement of Mr. Sprizzo.

THE COURT: Same ruling.

MR. BARRY: I also move for a judgment of acquittal. May I just say one thing, and I hate to reiterate, your Honor, but we are charged with violation of 1001 and 1546, your Honor. I can find listening to this case no evidence. All I've heard is marriages, marriages, marriages. I don't think we are charged with being a matchmaker, that is not the charge. We are charged with violating and giving statements to, or conspiring to give statements to the immigration service.

There is -- it is not a crime, your Honor, to

arrange a marriage, and thisis --

THE COURT: This is the argument that is made. I fully recognize it. I recognize that it is not without some color of merit. All I am saying is that after due consideration I am inclined to believe that there is at least enough evidence to go to the jury so that the jury may determine whether or not the government has carried its burden of proving beyond a reasonable odubt that Jean Fong and Jimmy Yu must have been aware of the illegal purposes of the group.

MR. BARRY: Your Honor, there is only two marriages we were involved in, and both the testimony has -- the testimo-y has shown in both that both were friends of Jimmy Yu's, which would be a natural thing to bring him to his lawyer, so you can not say, your Honor, that as far as Jimmy Yu is concerned that he ever conspired to defraud the government as far as making statements to immigration.

THE COURT: He also knew, in connection with those marri- es, that the prospective husband and wife were being introduced days before the marriage was to take place. He must have realized the chances that such a marriage would become permanent or bona fide were fairly remote.

MR. BARRY: But there is no evidence of that, your honor.

THE COURT: There is no evidence which really suggests the contrary. The fact that he knew one of the parties doesn't mean that it wasn't contemplated, and that he didn't reasonably contemplate that false statements were going to be made tothe Immigration and Naturalization Service in connection with the marriage.

MR. BARRY: There is no proof that the government showed that, your Honor. All they have shown here aremarriages. That is all they have shown.

THE COURT: They have shown marriages and they ahve shown false statements and they have shown a lot of other circumstances which might suggest that these two defendants were aware that false statements were going to be made. I abide by my ruling.

Bring the jury in.

MR. KINGHAM: Your Honor, before the end of the case I will have the indictment redacted and retyped to reflect the Court's rulings.

(Jury present)

THE COURT: I apologize for the delay. We had some legal matters that had to be taken care of.

Mr. Kingham, do you want to dictate the terms of the stipulation.

MR. KINGHAM: I do, your Honor, if I may.

It has been stipulated between counsel for the defendant Chu and the government in this case that, first of all, the defendant's 1972 income tax return reflects a net loss from stock transactions in 1972 of the following amounts: $65,072.35.

It is further stipulated that the 1973 tax return of the defendant reflects the following --

THE COURT: Of the Defendant Chu.

MR. KINGHAM: Mr. Chu, your Honor, yes. This is only with respect to the defendant Chu. Reflects the following: From the law practice, gross receipts of $10,400. From the insurance business, gross receipts of $4036.20. Interest income of $5564.65.

It is further stipulated, and finally, that the 1974 income tax return of the defendant reflects gross receipts fromthe law practice of $10,650; gross receipts from the insurance business of $3868.40, and interest income of $3467.05.

That is the extent of the stipulation, your Honor.

THE COURT: You agree with the statement?

bsr12

MR. FLEMING: Yes, your Honor.

MR. KINGHAM: With that, the government rests.

MR. FLEMING: We call Mr. Chu, your Honor.

THE COURT: All right.

(Continued on next page)

lhrl

G E N E L O Y C H U , called as a witness in his own behalf, being first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. FLEMING:

Q Gene, will you keep your voice up, please?

A I will.

Q How old are you, Gene?

A 44 years old.

Q Where were you born and raised?

A Manhattan.

Q In Chinatown?

A That's right.

Q What did your father and mother do?

A My father was a druggist and my mother has a gift shop.

Q Did you go to college?

A Yes, I did.

Q Where was that?

A Wagner College, Staten Island.

Q Did you go to law school?

A Yes, I did.

Q Where was that?

A St. John's University in Brooklyn.

lhr2 Chu-direct

Q When did you graduate from St. John's?

A June of 1956.

Q Were you thereafter admitted to practice law in the State of New York?

A Yes, I was.

Q After you were admitted to practice law, where did you practice law in the State of New York?

A Chinatown.

Q By the way, do you live in Chinatown now?

A No, I don't.

Q Where do you live now?

A I live in Queens.

Q Are you married?

A Yes, I am.

Q Any children?

A Yes.

Q Boy, girl, age?

A One boy age 15, a girl age 12.

Q Did you testify that you have been practicing in Chinatown since your admission?

A Yes, that's correct.

Q That was in about 1957?

A That's right.

Q I guess you know that you have been named

in an indictment?

A That's correct.

Q The one on trial.

Have you ever been convicted of a crime?

A Never.

Q As a lawyer are you qualified to practice before the Immigration and Naturalization Service?

A That's correct.

Q When did you become so qualified?

A I don't remember the exact year.

Q Has it been a number of years?

A I would say it's about 14, 15 years.

Q Have you read the indictment in this case?

A Yes, I have.

Q Did you enter a plea ofnot guilty to the indictment?

A That is correct.

Q Have you listened to the testimony in court?

A I have.

Q How do you plead to the indictment now?

A Not guilty.

Q I want to direct your attention to the year 1973. In 1973, as an attorney, did you have an opinion as to whether or not it was legal for an alien, by that

lhr4 Chu-direct

I mean a non-citizen, to marry an American citizen as a means of obtaining permanent residence in the United States?

A Yes, I did.

Q You did have an opinion?

A Yes, I did.

Q What was that opinion?

A I felt that if they went through a valid marriage according to the state in which they resided, and if they lived together and intended this to be a marriage, and if the husband was going to support the wife and the wife was going to keep a home for the husband, that would make it a valid marriage.

Q Do you have anydifferent opinion today?

A No.

MR. KINGHAM: Objection, your Honor, relevance.

THE COURT: Sustained.

Q In 1973 did you have an opinion as to whether sexual relations were essential to a marriage for a permanent resident?

A Yes, I did.

Q What was your opinion?

A That it wasn't necessary.

Q What was your opinion in that regard specifically?

MR. KINGHAM: Objection, your Honor. Asked and answered.

THE COURT: Yes. He said it wasn't necessary in his opinion at that time.

Q Did you have a particular feeling as to whose business sexual relations were?

A It was up to the parties themselves.

Q You met Mr. Fan?

A Yes, I did.

Q Mildred MIranda, you met her?

A That's right.

Q Tommy Hu, did you meet him?

A Yes, I did.

Q Francesca Torres, did you meet her?

A Yes, I did.

Q John Jout?

A Yes.

Q Carmen Miranda?

A Yes.

Q Brian Yeung?

A Yes.

Q Imgard Cruz?

A Yes.

Q Perry Chang?

A Yes.

Q Elizabeth Hernandez?

A Yes.

Q Let me ask you, with regard to -- what is Fan's full name?

A Wun Chiu Fan.

Q With regard to Wun Chiu Fan and Mildred Miranda, did you meet them before or after they were married the first time?

A I met him before. I am not sure whether I met her before or after.

Q With regard to Tommy Hu and Francesca Torres, do you recall whether you met them before or after the marriage?

A I met them both before.

Q With regard to John Jout and Carmen Miranda, what is your recollection as to whether you met them before or after the marriage?

A I met them both before.

Q Brian Yeung and Imgard Cruz, do you have a recollection as to whether you met them before or after the marriage for the first time?

A Yes, I do.

Q What is that recollection?

A I met them both before the marriage.

Q Finally, Perry Chang and Elizabeth Hernandez, what is your recollection as to whether you met them before or after they were married?

A I met him before they were married, I met her after they were married, the day they were married.

Q Chang before and Hernandez after?

A That's right.

Q With regard to all of these people, did you know that Fan and Hu and Jout and Yeung and Chang were non-resident aliens?

A Yes, I did.

Q Did you know that Mildred Miranda and Carmen Miranda and Francesca Torres and Imgard Cruz and Elizabeth Hernandez were American citizens?

A Yes, I did.

Q Did you know that the non-resident Chinese were paying money to the American citizen spouses in connection with the marriage?

A All withthe exception of the Chang-Hernandez marriage. I didn't realize that until later.

Q Since you testified you didn't meet Elizabeth

lhr8 Chu-direct

Hernandez until after she had married Perry Chang, let me direct your attention only to the Fan-Mildred Miranda marriage, the Tommy Hu-Francesca Torres marriage, John Jout-Carmen Miranda marriage and Brian Yeung and Imgard Cruz.

With regard to those four, did you have occasion before they were married to discuss with them what that they were about to do? Yes or no.

A Yes.

Q Did you give them advice, yes or no?

A Yes.

Q What advice did you give these people, these couples?

A I advised them what they would have to do. I told them they would have to live together, I told the man he would have to support the wife, and I told the wife that she would have to maintain a home and that their intention would be to be married.

Q Did you tell them anything about sexual relations?

A No, I didn't.

Q Did you tell them anything about Immigration and Naturalization Service and the money that was being spent? The money the man was paying the woman.

A I am afraid I don't understand your question.

Q Did you advise them with regard to Immigration and Naturalization Service and their particular marriage?

A Yes, I did.

Q What did you tell them about immigration?

A I told them that immigration was suspicious of mixed marriages, which these all were, and that immigration would conduct an independent -- their own independent investigation on them, and if they weren't serious about living together and intending to be married, then they shouldn't waste their money or their time and they shouldn't get married.

Q Did you tell them that in your opinion they would be found out?

A Yes, I did.

Q Am I correct, as a matter of fact, you told the men that twice, when you met them alone and then when you met them with their wives?

MR. KINGHAM: Objection to leading, your Honor.

THE COURT: Sustained.

Q Did you have that same conversation with the men twice?

MR. KINGHAM: Same objection, your Honor.

THE COURT: Sustained.

Q When you had the conversations with these spouses that you just testified to, what did they say, if anything?

A They understood what they were supposed to do and they accepted it.

Q They were willing to get married?

A Yes.

Q Did you have such a conversation with Perry Chang?

A Yes, I did.

Q Did you have such a conversation with Elizabeth Hernandez?

A Yes, I did.

Q How many times did you talk to Chang about it, if you recall?

A I believe I spoke to him once before he was married and once after he was married.

Q When you spoke to him after he was married, was Elizabeth Hernandez with him?

A Yes.

Q Did either of them object?

A No, they didn't.

Q These I-130s --

MR. FLEMING: May I have one of them, Mr. Kingham?

Q You are familiar with these I-130 forms, Mr. Chu?

A Yes , I am.

Q With regard to these five marriages, that is Fan-Miranda, Tommy Hu and Francesca Torres, John Jout and Carmen Miranda, Brian Yeung and Imgard Cruz, Perry Chang and Elizabeth Hernandez, did you prepare the I-130s in connection with each of those marriages?

A Yes, I did.

Q Do you recall how you went about preparing each of those I-130's?

A Yes, I do.

Q Would you tell us how you did it?

A On each occasion the parties came in after their marriage, I went through the entire form with them, each question, and although I had the marriage certificate and birth certificate, I asked them the question to confirm the date they were born, the date they were married, the place they were born, the place they were married, and I asked them each question and they answered each question, and I wrote this down on a piece of paper.

Q Did you ask them where they were going to live?

A Yes, I did.

Q You wrote their answers down?

A Yes, I did.

Q Did you have a secretary or did you employ a secretary in your office to do your typing?

A No, I did not.

Q Who did your typing?

A I do it myself.

Q When did you prepare the I-130?

A As soon as I possibly could.

Q How did you actually prepare the typewritten form?

A Well, I typed it out taking the information from my handwritten notes.

Q How did you date the form?

A On the date I typed it.

Q Was the date you typed it in every instance the date upon which the spouse had signed it?

A No.

Q When, as best you recall it, did the spouses sign these I-130's?

A On the date of their marriage.

Q Is that in each case?

A Every marriage.

Q When they signed it, were they in blank?

A Yes, they were.

Q Then you typed in the information on those forms: is that right?

A That's correct.

Q And notarized them as of the date that you prepared them?

A That's right.

Q Did you then file those forms with the Immigration Service?

A Yes, I did.

Q By the way, did you enter an appearance as an attorney in connection with these marriages?

A Yes, I did.

Q So you told the Immigration Service you were connected with these marriages as an attorney?

A That's correct.

Q When you talked to these people the day they were married and you filed these I-30's, on your oath, did you believe those statements were true?

A I did.

Q Did you believe that they were going to live at the residences you put down?

A I did.

Q They told you that?

A That's correct.

Q That's on your oath?

A Yes.

Q There has been testimony about I-130 interviews Did you hear the testimony that the I-130 interviews were initiated some time in October, 1973?

A Yes, I did.

Q What was your understanding as early as July and August of 1973 with regard to I-130 interviews?

A I am sorry, I don't understand.

Q Before October, 1973 was it your understanding that they did interview in connection with these applications?

A Yes, they did.

Q Was this a new procedure to you in October, 1973?

A No, it was not.

Q Did you go to an I-130 interview, if I can call it that, with Mr. Fan and Mildred Miranda?

A I did.

Q Did you go to an I-130 interview with Tommy Hu and Francesca Torres?

A I did.

Q Did you go to two I-130 interviews with John Jout and Carmen Miranda?

A Yes, I did.

Q Did you go to an I-130 interview with Brian Yeung and Imgard Cruz?

A I did.

Q What about Perry Chang and Elizabeth Hernandez, was there actually an I-130 interview with them?

A No, there was not.

Q Prior to these I-130 interviews, did you prepare

the spouses for their interviews?

A Yes, I did.

Q What is your best recollection, on your oath, as to what you did to prepare these spouses for their I-130 interviews?

A Well, the first thing I did was speak to the alien spouse to see his understanding of English and to see whether it would be necessary for him to speak through an interpreter or not. I would ask him questions in English to see if he could understand I explained to them the procedure involved where one of the spouses would go in first, answer a series of questions in the absence of the other one, and then the other one would go in, and I would tell them the type questions that Immigration would ask and general field that this covered.

I wanted to -- primarily the alien spouse to have an understanding, because usually with Chinese men they have problems with colors, left and right and description of certain things.

Q Would you ask them questions about their apartments and wherever they were living?

A Yes, I did.

Q Did you tell them what answers to give?

A No.

Q Did you tell any of these spouses to make up a story about how they had met?

A Never.

Q On your oath?

A Yes, sir.

Q Did you tell any of these spouses to lie about or to conceal in response to a question the fact that they were paying you a fee?

A No, I did not.

Q In fact, you had entered your notice of appearance as an attorney, had you not?

A That's correct.

Q Did you tell any of these spouses to lie if asked or to affirmatively conceal the fact that money had been paid from the husband to the wife in connection with the marriage?

A I did not.

Q Do you have an independent recollection, perhaps refreshed, but a recollection now of the I-130 interview of Fan Wun Chiu -- is that correct?

A Wun Chiu Fan

Q Wun Chiu Fan and Mildred Miranda?

A Yes, I do.

Q What is your recollection with regard to that interview and what happened after that interview there?

A Several discrepancies arose. One discrepancy was as to a shower curtain. One had testified that there was a shower curtain and described the shower curtain in detail. The other party said there was no shower curtain.

There was one question about the bathtub, how the water was released from the bathtub. One stated that there was a stick on the side of the bathtub and the other said that there was a release mechanism between the two faucets. I don't recall any other discrepancy.

Q Did you have a conversation with them about their initial interviews? Let me sto there.

From your experience, how does it work at Immigration, something about sending people upstairs, explain tht?

A If some discrepancies arose, then the Immigration interviewer would have us go upstairs to the 13th floor where they would be further questioned in the presence of a stenographer.

Q Did that happen in connection with the Fan and Mildred Miranda interview, if you recall?

A Yes, it did.

Q Did you have a conversation with Fan and Mildred Miranda after they were questioned by the interviewer?

A Yes, I did.

Q Tell us what you said and what they said.

A When we went upstairs, the Immigration interviewer spoke to me and he told me that these discrepancies arose, and he thought they were material, and he felt that they weren't actually living together. He said -- he recommended that the best thing to do, if they would be willing to withdraw the petition, no further action would be taken.

I asked him if it would be permissible for me to speak to them in private to discuss this with them.

I did this, and I told them that the Immigration Service did not believe that they were living together, and at this point it was difficult for me to believe this. I told them the Immigration Service would permit them to withdraw, and my recommendation was that they should withdraw, and they accepted my recommendation adn they did withdraw.

Q They withdrew their petition?

A That's correct.

MR. FLEMING: Your Honor, we sit until about a

quarter to five?

THE COURT: We can quit any time that is convenient to you. I have a show cause order that is supposed to be heard at 4.30. That can wait, if necessary, but if you would like to quit now for the evening --

MR. FLEMING: It doesn't matter to me, Judge.

THE COURT: We will go on for another five or ten minutes, if that is convenient for you.

MR. FLEMING: That is fine, yes.

Q I would direct your attention to the John Jout and Carmen Miranda interview. Before I do, wait a second. Before we leave Mildred Miranda, who introduced Fan to you?

A A client of mine with a store on Catherine Street.

Q What was his name?

A Chung Yung.

Q He was a person you had known for a while?

A Yes, he was.

Q You trusted him?

A Yes, I did.

Q He introduced Fan to you?

A Yes, he did. He came to my office with him.

Q One other thing on Mildred Miranda and Fan, did Mildred Miranda tell you or did you hear the day that they were married that Mildred Miranda was going to Puerto Rico?

Would you answer that yes or no.

A Yes.

Q Tell us who was present when you heard it?

A Mildred and Wun Chiu Fan, Jean Fong and myself. I don't know if there was any else present?

Q What do you recall of that conversation?

A Jean Fong spoke to Wun Chiu Fan asking him -- telling him that he would enjoy Puerto Rico and saying that that was a nice place to have a honeymoon, and he told Jean Fong that he wasn't going, and she asked him why not, and he told her that, one, because he couldn't afford it, and, two, because he couldn't get away from work. She said she was going down, but that he would be moving into her apartment in her absence..

(Continued on next page.)

Q Who said that?

A Mildred.

Q Said that she was going down but --

A Her husband would be living in her apartment.

Q There was also, in connection with Mildred, testimony about a fellow named Raoul. Do you recall that testimony, Mr. Chan in this trial?

A Yes.

Q You say you recommended that Fan and Mildred withdraw their peeition and they accepted your advice. Did there come a time, yes or no, when you met Raoul?

A Yes.

Q Did you meet Raoul for the first time before or after the I-130 interview of Fan and Miranda?

A After.

Q What is your recollection of that?

A I believe it was the day after the interview. He came to my office with Mildred and he wanted to know what happened during the interview.

I asked Mildred, you know, who he was, and she told me that that was her common law husband and that she had been living with him, and that was the first time I realized that they were not living together.

Q Did you say anything to them about that?

A I said I wish I would have known this.

Q Did Raoul say anything about Fan?

A Yes, he did. He told me that -- after I told Raoul the discrepancies that arose, he said that Fan must have been very stupid because he had just shown him everything in the bathroom the day before.

Q Tell me something: Did Raoul ever tell you that you better watch your step because if anybody hurt Mildred he was going to hurt you?

A I don't recall that.

MR. FLEMING: Would this be a convenient time, your Honor?

THE COURT: We will recess now until 10 o'clock in the morning.

(Adjourned to May 12, 1976 at 10 a.m.)

WITNESS INDEX

Name	Direct	Cross	Redirect	Recross
Imgard Cruz	684	714	742	743
Yeung Yau Choi	744	778	800	802
Gene Loy Chu	843			

EXHIBIT INDEX

Government	Identification	In Evidence
46,47		697
41-A through 41-F		700
43		706
42		757
44		767
Defendant		
E	720	
F		794
G	794	795
H	795	

UNITED STATES OF AMERICA

vs. 76 Cr. 439 (WCC)

GENE LOY CHU, et al.

May 12, 1976
10:00 a.m.

Trial resumed.

- - -

(In open court; jury present)

MR. FLEMING: Your Honor, may we have permission to call one very short witness out of order? He has been working all night.

THE COURT: Surely.

MR. KINGHAM: I have no objection.

MR. FLEMING: Robert Chase.

R O B E R T C H A S E , called as a witness by defendant Chu, being first duly sworn, testified as follows:

lhr Chase-direct

DIRECT EXAMINATION

BY MR. FLEMING:

Q Mr. Chase, we have just met. You know my name is Peter Fleming?

A Yes.

Q Are you a New York police officer?

A Yes, sir.

Q How long have you worked for the New York police department?

A 19 years.

Q Is your present beat up in Chinatown?

A It is.

Q How long have you worked up in Chinatown?

A Approximately seven years.

Q Do you know a man named Gene Chu?

A Yes, sir.

Q Do you see him here?

A Yes, sir.

Q Point him out, would you, please, officer?

A The fellow with the glasses.

MR. FLEMING: May the record show the identification, your Honor?

THE COURT: It may.

Q How long have you known Gene Chu?

A Approximately seven years.

Q Do you know other people that know Gene Chu?

A Yes, sir.

Q Are you familiar with Gene Chu's reputation in Chinatown for truthfulness, honesty and veracity?

A Yes, I am.

Q What is his reputation?

A It is a very fine reputation.

Q Do you personally have an opinion as to Mr. Chu's honesty and veracity?

A I do.

MR. FLEMING: This is under the new rule, your Honor.

MR. KINGHAM: I have no objection to that, your Honor.

THE COURT: I was just waiting for an objection. You may proceed.

MR. KINGHAM: I know the rule too.

MR. FLEMING: It is a new rule.

Q What is your personal opinion of his honesty and veracity?

A It has always been above board and honest and truthful.

Q Thank you very much, officer. Thank you

for coming. Did you work all night?

A Yes.

MR. FLEMING: Thanks for coming in.

CROSS-EXAMINATION

BY MR. KINGHAM:

Q Officer Chase, my name is Kingham. I am the prosecutor in this case. You have testified before in courts, have you not, in the course of your duties?

A Yes.

Q Officer Chase, you have known Mr. Chu for some seven years, is that correct?

A Yes.

Q Do you know where his office is located?

A On Division Street.

Q Have you ever been in his office?

A No, sir.

Q Did you know Mr. Chu during June of 1975, that is last year? You knew him at that time, did you not?

A Yes, sir.

Q During June and July, 1975 did Mr. Chu ever report an extortion attempt to you?

A No, sir.

MR. KINGHAM: No further questions.

MR. FLEMING: Thanks again for coming, officer.

MR. KINGHAM: Yes, thank you for coming, officer.

(Witness excused)

MR. FLEMING: Mr. Chu.

G E N E L O Y C H U resumed.

THE CLERK: Mr. Chu, you are still under oath.

DIRECT EXAMINATION CONTINUED

BY MR. FLEMING:

Q Mr. Chu, I want to direct your attention to the marriage of Tommy Hu and Francesca Torres. All right?

A Yes.

Q Did you attend an I-130 interview with Tommy Hu and Francesca Torres?

A Yes, I did.

Q Would you tell us what you recall of that interview?

A Certain discrepancies arose. One discrepancy was the distance from the apartment to the bus stop. I

don't recall the distance each side.

The other discrepancy was as to the color of a clock, one said it was yellow and one said it was white.

(Continued on next page)

Q Do you recall if Tommy Hu and Francesca Torres were asked how they met?

A Yes, I do.

Q Do you recall if they gave an answer. and, if so, what they said?

A Yes. They stated that Tommy and his uncle had met at a dinner with Frances and a girl friend of Frances'.

Q Was it your understanding at the time that Tommy and Francesca had met in your office?

A Yes.

Q Did you correct them, did you correct their statement to Immigration about how they had met?

A No, I did not.

Q You were their attorney?

A Yes, I was.

Q Why did you not correct them?

A I felt that ethically as an attorney I could not do that.

Q Did you have a discussion with them after the interview?

A No, I did not.

Q What happened next in connection with the Tommy Hu-Francesca Torres marriage, insofar as you can recall?

A Yes, I do.

Q Are they documents in connection with the closing about which you have just testified?

A Yes, they are.

MR. FLEMING: I offer them, your Honor.

MR. KINGHAM: I have no objection.

(Defendant's Exhibit I was received in evidence.)

xx MR. FLEMING: Your Honor, may I read a part of Defendant's Exhibit I, which is a letter dated March 22, 1974?

THE COURT: Yes.

(Whereupon Mr. Fleming read from Defendant's Exhibit I to the jury.)

MR. FLEMING: I don't remember, your Honor, if I asked Mr. Chu what his recollection is as to what time he left Immigration that day.

THE COURT: He said it was around 11.30.

Q Before you left Immigration were you present at interviews of John Jout and Carmen Miranda?

A Yes, I was.

Q After their interviews, do you recall whether or not they were taken upstairs, as you testified yesterday?

A I believe Fran came to my office one day, I don't know whether she was alone or with Tracy, and she told me that Tommy was working down in either North Carolina or South Carolina, and that she was living at the house with Tommy's father.

She didn't like living there without Tommy being there, and she wanted to know if she could stop living there. I told her that why didn't she move down to North Carolina or South Carolina with Tommy or possibly get another apartment which could be a home for her and Tommy, and she didn't say anything.

Q Do you recall anything further about that marriage?

A I believe they received a notice of another interview, and Fran came to see me. She told me she couldn't locate Tommy, and she asked if I had heard from him. I called Tommy's uncle, and he tried looking for him and couldn't find him, and we didn't appear at the interview.

Q Was that the end of the petition?

A I believe it was subsequently denied by the Immigration Service.

Q Who introduced you to Tommy Hu?

A His uncle.

Q What was his name?

A Johnny Fong.

Q Was anyone else present when you were introduced to Tommy Hu?

A Tommy's father.

Q Do you recall the conversation with the uncle, the father, Tommy and -- was Tommy there?

A Yes, he was.

Q Do you recall the conversation with Tommy, the father, the uncle and yourself?

A Yes, I do.

Q In substance, tell us what it was.

A Tommy's uncle did most of the talking because Tommy's father spoke a different dialect, and we didn't communicate in Chinese at all.

He told me that Tommy's father had wanted Tommy to settle down and stay in the United States and possibly marry someone.

MR. KINGHAM: Objection to the hearsay, your Honor, but no objection for the fact that it was stated in the defendant's presence. Request an instruction.

THE COURT: Yes.

This testimony about what was said to the witness is being received only as proof of the fact that

it was said and not for the truth of what was said to him.

MR. FLEMING: It also goes to the state of mind of the defendant, your Honor.

THE COURT: That is what I said. It is being received as proof that the statement was made to him, not for the truth of the statement.

MR. FLEMING: That is right.

Q Another question about that marriage.

Did Tommy Hu and Francesca Torres come to your office on the day they were married after they were married?

A Yes, they did.

Q Did you question them with regard to the questions on the I-130 petition?

A Yes, I did.

Q Did you question them about residence?

A Yes, I did.

Q Do you recall what they said about residence?

A Fran didn't like the idea of living with Tommy and his father, and she wanted to get an apartment, and Tommy assured her he would.

Q Did they say where they would be living at that time, however?

A Yes, they did.

Q Where was that?

A I don't remember the address, but it was the address of where Tommy and his father were living.

Q I want to direct your attention back again to the marriage of John Jout and Carmen Miranda. Did you attend an I-130 interview with them?

A Yes, I did.

Q How many I-130 interviews did they have that you attended?

A I believe there were two.

Q Do you recall when the first one was, the year and the month?

A April of 1974.

(Continued on next page.)

Q Do yourecall the date?

A April 2.

Q Did you go to INS with them?

A Yes, I did.

Q Were you present with them during the entire period of time they were at INS?

A No, I was not.

Q How did it come about that you left before they did?

A I had a closing, other clients of mine were purchasing a home, and the closing was scheduled for 12 o'clock.

Q Where?

A Astoria, Queens.

Q What is your best recollection as to when you left INS?

A I believe I left close to 11.30 that day.

MR. FLEMING: May I have all these marked as a single exhibit, please.

(Defendant's Exhibit I was marked for identification.)

xx Q Let me show you I for identification, Mr. Chu. Would you look at those and tell me if you recognize those documents?

A Yes, I do.

Q Are they documents in connection with the closing about which you have just testified?

A Yes, they are.

MR. FLEMING: I offer them, your Honor.

MR. KINGHAM: I have no objection.

(Defendant's Exhibit I was received in evidence.)

MR. FLEMING: Your Honor, may I read a part of Defendant's Exhibit I, which is a letter dated March 22, 1974?

THE COURT: Yes.

(Whereupon Mr. Fleming read from Defendant's Exhibit I to the jury.)

MR. FLEMING: I don't remember, your Honor, if I asked Mr. Chu what his recollection is as to what time he left Immigration that day.

THE COURT: He said it was around 11.30.

Q Before you left Immigration were you present at interviews of John Jout and Carmen Miranda?

A Yes, I was.

Q After their interviews, do you recall whether or not they were taken upstairs, as you testified yesterday?

A Yes, they were.

Q Was it about that time that you had to leave?

A Well, we were questioned shortly upstairs.

Q Then you had to leave?

A Then I left.

Q Do you have any recollection of whether Carmen Miranda and JOhn Jout were questioned as to how they met?

A Yes.

Q What is your recollection?

A I believe they stated they had met in the Lantern Light Restaurant.

Q Is it our understanding that they met in your office?

A Yes, it was.

Q Did you correct them?

A No, I did not.

Q At Immigration?

A No, I did not.

Q Do you recall any other discrepancies in their testimony?

A I believe there was --

Q Or statements, actually.

A I believe there was a discrepancy as to -- I believe Carmen stated that there was a lake or some

water behind their apartment house, and her husband stated that there were woods and trees. And I believe there was one other discrepancy about a dog, whether they had gotten it before or after a certain occurrence, I don't recall.

(Continued on next page.)

Q Did immigration talk to you about the lake and the trees?

A Yes, they did. I spoke to the immigration officer.

Q What was that conversation?

A I believe the immigration officer took a map out and showed me where the house was and where the water was on this map, and I discussed it with him and I said -- I asked him, had he been to the house, and he said he had not, and I asked him -- I told him that it was entirely possible that the water might be there and John didn't know it was there. I told him I had not been there either but, it's possible that you could not tell from the map, and he seemed to agree with me because he didn't pursue it any further.

Q Did there come a time when there was a second I-130 oral interview of Carmen Miranda and John Jout?

A Yes.

Q Do you recall what year and, if you can, what month that took place?

A This was in April of '75.

Q About a year later?

A Yes.

Q During the year between the two interviews

did you see Miranda or Jout on any occasion?

A I believe they stopped by the office from time to time just to see what progress was being made on the case.

Q Did you go to the second 2-130 interview?

A Yes, I did.

Q What do you recall about that?

A I think the immigration officers told us -- I think they took me aside and told me that they had an investigation and that it disclosed that John had a gun or a nightstick and a uniform, and they were wondering whether he was a police officer or a security guard of some kind.

And also their investigation disclosed that they weren't living together and I believe he gave me the opportunity to speak to them about these discrepancies which I did do.

Q What conversation did you have with Jout and Miranda?

A I spoke to them. I told them of what immigration had learned from their investigation and I asked -- I asked them whether they were in fact living together, and I also asked whether John had anything to do with a gun or being a security guard of some kind.

He told me he was not a security guard, he never owned a gun, and they both assured me that they were living together in Brooklyn.

Q Did you talk to them about their petition, what they should do about it?

A Well, I believe immigration had a O and A first.

Q You had no discussion with them about their petition at that time?

A No, I did. Before we had the O and A we discussed this, and immigration had told me that they would give them the opportunity to withdraw the petition at that time with no further action on their part.

I asked them whether they would want to and they said no, they didn't, and they would go through with this O and A on the record.

Q All right.

Going back in time on the Miranda-Jout marriage, did Carmen Miranda and John Jout come to your office on the day they were married after they were married?

A Yes.

Q Did you question them about the information on the I-130?

bsr4 Chu-direct

A Yes.

Q Do you recall any conversation about where they were going to live?

A I believe they were going to live in a basement apartment at Jimmy Yu's house until they could find an apartment of their own.

Q Did Carmen say anything about the apartment, where she wanted to live, was there any conversation about that?

A Yes.

Q What was that?

A She wanted to live in Brooklyn, I believe, near her sister, and asked John if he had any objections to it. John said, so long as there was a subway and it was convenient, he would have no objection.

Q Brian Yeung and Imgard Cruz. Was there an I-130, oral interview, of Brian Yeung and Imgard Cruz?

A Yes, there was.

Q Did you attend that?

A Yes, I did.

Q Had that been adjourned a couple of times?

A Yes, it had.

Q The first -- Government's 43 is a notice of hearing -- the date of the notice September 20, '74, and

the hearing is scheduled for Wednesday, October 23, 1974. Do you recall receiving a copy of th[illegible]?

A Yes, I do.

Q Let me leave 44 with you. Am I correct that you adjourned that hearing?

A That is correct.

Q Didyou write an explanation of the adjournment on that form?

A Yes, I did.

Q Would you read it?

A "I will actually be on trial in Supreme Court, New York County on both October 22 and 23, 1974."

Q Have you been able to refresh your recollection as to what that trial was about?

A Yes, I have.

Q What was it?

A It's a proceeding between two partners for an accounting, which was in the Supreme Court and referred to a special referee for trial.

Q When did you date your request for an adjournment?

A October 21.

Q What number is that exhibit, Mr. Chu?

A 43.

Q 44, will you look at 44?

A Yes.

Q That is, am I correct, another notice of interview of Cruz and Yeung?

A That's right.

Q And what is it dated, that is the date of the letter, the notice?

A November 18, 1974.

Q When does it schedule the interview?

A December 13, 1974.

Q Did you attend that interview?

A No, I didn't.

Q Did you give an excuse with regard to that interview?

A Yes, I did.

Q What did you say there?

A I was out of the office due to illness.

Q And by the way, when do you date that?

A This is dated December 16, 1974.

Q So that was after, infact, the hearing had been scheduled, the interview?

A That's right.

Q Do you have any recollection of that illness?

A I believe it was -- I have an asthmatic

condition that is caused by an allergy, and it causes my lungs to fill with some kind of fluid, and I can't sleep.

Q Do you have any recollection of traveling during that month of December?

A I believe I might have been in San Francisco, I don't recall exactly, and I believe I might have gotten sick, because I have a recollection of calling my wife and telling her I wouldn't be back because of my illness.

Q Do you have business in San Francisco?

A Yes, I do.

Q What is that business?

A The theater business.

Q Explain that for a second.

MR. KINGHAM: I object, your Honor, relevance.

THE COURT: Sustained. Unless there is some question about the fact that he was there, and apparently there is none.

Q Now, am I correct that Cruz and Yeung were interviewed in January of '75?

A That's right.

Q Were you present?

A Yes, I was.

Q What do you recall about that interview?

A I don't think there were any discrepancies.

Q Were they asked how they met, do you recall?

A I believe they were.

Q Do you recall what they said?

A I think they stated that they had met in a friend of Imgard's apartment in the same building.

(Continued on next page)

Q Was it your understanding that they met with you?

A Yes, it was.

Q Did you correct them?

A No, I didn't.

Q For the same reason as with regard to the others?

A Yes.

Q Did you have a conversation with Imgard Cruz and Brian Yeung or either one of them after the interview, that you can recall?

A Do you mean that day?

Q Yes.

A I don't believe so.

Q When Yeung met Imgard Cruz, did they have a baby?

A Yes, she did.

Q Did she have the baby with her?

A Yes, she did.

Q Was there a conversation about that baby when they first met?

A Yes, there was.

Q What do you recall of that conversation?

A Whether Brian would have any objection because

of the baby, and he stated no, because he liked children.

Q Any question of supporting the baby?

A He agreed to support both Imgard and the baby.

Q Did you see Brian Yeung from time to time between the time this couple was married and let's say the end of June, 1975?

A Yes, I did.

Q Did he ever come to your office with just the baby?

A Yes, on one occasion.

Q Without Imgard?

A Yes.

Q What do you recall of that meeting?

A He told me he was baby sitting and that he took the baby down from the Bronx by himself. It surprised me because of the fact that it was such a young baby.

MR. KINGHAM: Objection, your Honor.

THE COURT: The jury will disregard the statement that he was surprised.

A (Continuing) He said he was in Chinatown and he just thought he would stop by to say hello.

Q Any conversation about Swiss Inn or Rockefeller

Center?

A I don't recall whether he may have mentioned that he was working at Swiss Center in Rockefeller Center, I don't know.

Q Did he ever tell you that he was trying to get Imgard a job there?

A Yes, he did.

Q Do you recall when that was?

A I couldn't pin down the date, no.

Q Perry Chang and Elizabeth Hernandez, was there ever an I-130 oral interview of Perry Chang and Elizabeth Hernandez, at least one that you attended?

A No, there was not.

Q Did you ever have any conversations with Elizabeth Hernandez about that, that is about the I-130 interviews?

A Just generally, I believe, just the general procedure.

Q I understand that, but did she ever come to you and talk to you about whether she did or did not want to go forward with it? That's what I am referring to.

A Yes, she did.

Q Tell us what you recall about that conversation,

or, if there were more, those conversations.

A I believe it was after the petition was filed and before a notice came for an interview, Lisa, is what I called her, she came to my office alone one day. I don't recall whether she had an appointment or she just came in. She told me that she thought that Perry was seeing a Chinese girl and that he wasn't coming home nights, and she was uncertain as to what she was going to do.

Q What did you say to her, if anything?

A I said that "If he is not living with you, then you definitely should not go ahead with this petition."

Q Was there any further conversation at that timeor at a later date in that connection?

A At a later date there was.

Q Tell us about that.

A I don't recall when it was, but I believe she came together with Perry Chang and Jimmy Yu. It was discussed about whether she was going to proceed with the petition or not. I believe it was then that either she told Perry or I told him that she was not going to go through with this.

Q What did Perry do, if anything?

A He was angry, and he told her she should go

ahead with it.

Q Did they leave the room, if you recall?

A Yes, they did. She and Perry went out to the waiting room.

Q Did they return?

A Yes, they did.

Q Was there any further conversation at that time?

A I don't believe there was too much after that.

Q Did Elizabeth Hernandez ever talk to you about this situation again, after that?

A I believe she came down again to my office, this time alone, and she told me that Perry had threatened her, saying that he would hurt her if she didn't go through with this, and I told her that she should not be intimidated, that if he wasn't living with her, that she should not go through with this.

Q What did she say, if anything?

A She agreed with me.

Q Did you meet again in this connection?

A Yes, I think we did.

Q What can you recall of that?

A I believe that we tried to arrange a meeting,

but Perry was angry at me and he wouldn't come to my office, and he said he would only meet if I would go to their apartment, which was closer to his place of business.

Q Did you go there?

A Yes, I did.

Q Who was there?

MR. KINGHAM: Excuse me, your Honor. Could we have the time?

THE COURT: Yes.

A It was after the meeting we had just discussed, but I don't know the exact date.

Q Who was there to your recollection at the apartment?

A I believe that just she and Perry were there.

Q Was there a conversation, and, if so, can you tell us what it was and who said what?

A It was the same conversation. He told me he did live there and she said he didn't, and he wanted her to go through with the petition, and I said it was ridiculous, it didn't make sense that she should not go ahead with it.

MR. KINGHAM: Objection, your Honor.

THE COURT: The jury will disregard his statement as to what was ridiculous.

Q Did you say that, Mr. Chu?

A Yes, I did.

MR. KINGHAM: I withdraw the objection. I didn't understand it that way. I am sorry.

THE COURT: I didn't either. The jury will not disregard the statement.

Q Did there come a time when you learned or you were told that Elizabeth Hernandez was going to Puerto Rico? Just say yes or no.

A Yes.

Q How did you find that out?

A I believe I had been trying to contact her without success, and I finally reached her I believe it was the day before the interview was scheduled, and I reached her by telephone at her home.

Q Did you have a conversation with her on the phone?

A Yes, I did.

Q Tell us what that conversation was.

A She answered the phone, and her voice was very weak. She told me she had just gotten out of the hospital, she had been in the hospital for pneumonia, and that she was going down to Puerto Rico to get some sunshine and recuperate.

I asked her if she had an address or a telephone number where I could communicate with her, and she said she wasn't certain at that time where she was going to be, but that I could contact her through her friend Barbara Harris, and she gave me her number, I believe.

(Continued on next page)

Q Did there come a time when you had a conversation with Chang about divorce?

A Yes.

Q As a result of that conversation, did you attempt to reach Barbara Harris?

A Yes, I did.

Q Did you reach her?

A Yes, I did.

Q Did you have a conversation with her?

A Yes, I did.

Q What was the conversation with Barbara Harris?

A It was about that Perry was willing to pay for a divorce and wanted a divorce.

Q Did you ask Barbara Harris to do anything?

A I asked her to have Lisa get in contact with me.

Q What did Barbara Harris say?

A She said she would.

Q Did you receive a call from Hernandez?

A Yes, I did.

Q Tell us what you can recall of that conversation.

A Yes. I believe that I had told Barbara Harris that I was going to Puerto Rico -- going to Haiti, and I

would be stopping in Puerto Rico, and that possibly I could meet Lisa in Puerto Rico, and that was why Lisa had called me. We made an appointment for us to meet in Puerto Rico.

Q I want to know the conversation you had with Hernandez on the telephone.

A I told her than I had spoken to Perry, that he wanted to get a divorce. I think it might have been a question that Perry was willing to pay half and she pay half, and this is why there was this problem.

I asked her, and she said she had no money, and I asked her did she want to meet me and discuss this with me, and she said she would.

Q Did you make an arrangement to meet her, and, if so, where?

A Yes, I did. I made an arrangement to meet her at the airport in Puerto Rico, San Juan.

Q Did you meet her?

A No, I did not.

Q She didn't show up?

A That's correct.

Q I want to go back again, if I may, to Carmen Miranda and John Jout.

Did there come a time in or about June, 1975

when Jout spoke to you about wanting a divorce?

A Yes, he did.

Q Can you tell us about that conversation?

A I believe he came in my office. I don't remember whether he was with his sister or not, he told me he wanted to get a divorce from Carmen, that she was living with Fran, and he said that she had an unusual relationship with Fran and that he wanted to get a divorce and go back to Hong Kong. I told him that he should discuss this with his wife Carmen.

Q Did there come a time when Carmen and Jout came to your office?

A Yes, they came together with Jout's sister.

Q That's the same sister that was with Jout when they first met?

A Yes.

Q Was there a conversation at that time?

A Yes, there was.

Q Tell us what that was, that you recall.

A Carmen wanted $500 from Jout and she would consent to divorce. Jout did not want to pay it because he said he had no money and he was willing to pay for the divorce. I guess after they spoke a while, Carmen agreed to consent to the divorce without the payment of $500.

Q At that time did you receive a telephone call?

A Yes, I did.

Q Who was the caller?

A Alice Aviles.

Q Had you represented Alice Aviles in connection with a mixed marriage?

A Yes, I did.

Q What did Alice Aviles, to your recollection, say to you on the telephone at that time?

A She told me that she knew that I had either killed or had Lisa Hernandez killed and she wanted to talk to me about it -- no. I believe the first call she just wanted to speak to Tracy, Carmen.

Q You had two calls from her that day?

A Yes, I did.

Q The first call?

A The first call, she just wanted to speak to Carmen.

Q What did you do?

A I put Carmen on the phone.

Q What did Carmen do?

A She spoke in Spanish, I didn't know what she said, and she said she would be right back, and she ran out

of the office with Fran.

Q Did you receive a second call from Aviles on that day?

A Yes, I did.

Q How soon after the first call?

A I would guess maybe 15 minutes.

Q What did Aviles say to you during that telephone conversation?

A It was then that she told me --

Q Tell me what she said.

A -- that she knew that I had Lisa Hernandez killed or I killer her myself, and that she wanted to talk to me about it.

Q What did you say to her on the telephone?

A I think I must have said something, "You must be crazy,"or something like that. I don't recall exactly.

Q Did you agree to meet her?

A Yes, I did.

Q Did you meet her?

A Yes, I did.

Q Where was that?

A This was on Pitt Street just past the Williamsburg Bridge.

Q When you got there, did you see any of the other

girls?

A Yes, I did.

Q Whom did you see?

A I saw Carmen Miranda and Francesca Torres.

Q Where were they?

A They were in a car parked -- double parked there.

Q Did you see Alice Aviles?

A Yes, I did.

Q Where was she?

A She was standing in the street.

Q What did you do?

A I drove over close to her and she walked over to the car.

Q Was there a conversation?

A Yes, there was.

Q You tell us, who was present at that conversation?

A Just the two of us.

Q Tell us what was said and who said it.

A Alice Aviles told me that -- she repeated again that I had Lisa Hernandez killed or I killed her myself, that I had threatened many of the girls, and that I had some of them beaten up, and that because of this she was going to make me pay. She said she was going to get

the other girls together and they were going to go down to Immigration and make all sorts of accusations against me unless I paid her $15,000.

Q What did you tell her?

A I told her that, first of all, I had not heard from Lisa Hernandez, I had no knowledge or information as to whether she was dead or alive, or anything, but if she was I had nothing to do with it. I further told her that it was ridiculous, and, you know, I would not pay her anything.

Q Was that about the extent of the conversation, as you recall it?

A Yes.

MR. FLEMING: Do you have that letter?

Q I show you what has been marked Government's Exhibit 40 for identification. After that conversation with Aviles, Mr. Chu, did you attempt to get in touch with Lisa Hernandez?

A Yes, I did.

Q What did You do to get in touch with Lisa Hernandez, to your recollection?

A I I believe I tried contacting Barbara Harris, but Barbara Harris was in Puerto Rico, so I spoke to Barbara Harris' mother on the telephone.

Q Did Barbara Harris' mother help you at all?

A I explained the situation to her and she said she was certain that Lisa Hernandez was alive and well, and I said I just wanted to prove this, and I asked if I could send a letter -- I think she did not want to give me Lisa's telephone number or address, but she agreed that she would forward a letter, if I mailed it to her

Q All right. Did you do so?

A Yes, I did.

Q Is that the letter?

A It is.

MR. FLEMING: I offer it, your Honor.

MR. KINGHAM: No objection, your Honor.

THE COURT: It is already in evidence.

MR. KINGHAM: No, it is not.

THE COURT: All right.

MR. FLEMING: It does not matter to me, your Honor, whether it is re-marked or not.

MR. KINGHAM: There had been testimony about that before, your Honor, under that number.

MR. FLEMING: I would ask for the record, your Honor, that what is presently marked Government's 40 for identification be re-marked with the next defendant's letter.

MR. KINGHAM: No objection.

(Government's Exhibit 40 marked for identification now Defendant's Exhibit J in evidence.)

xx MR. FLEMING: It would be fair to say that we had objected to the admissibility of this letter on the Government's case pending our determination to go forward. The Government had offered it.

MR. KINGHAM: I wanted the record to be clear.

MR. FLEMING: This was the letter that Barbara Harris testified about.

May I read it, your Honor?

THE COURT: You may.

(Mr. Fleming read Defendant's Exhibit J in evidence to the jury.)

BY MR. FLEMING:

Q Mr. Chu, is this why you were trying to get in touch with Lisa Hernandez?

A Yes, it was.

Q Were you trying to get in touch with Lisa Hernandez so you could get your story straight, quote, unquote?

MR. KINGHAM: Objection, your Honor, form.

THE COURT: Is that a quote from a previous

witness?

MR. FLEMING: To my best recollection, your Honor.

THE COURT: Why don't you rephrase your question.

Q Did you make any attempt at any time to speak to Lisa Hernandez in order to make sure that you and Lisa Hernandez were telling the same story?

A No.

Q Did you ever see Jean Fong receive any money from any of these girls, or from anyone, girls or men?

A No, I did not.

Q After the conversation with Aviles, did you meet with Brian Yeung?

A Yes, I did.

Q Tell us what you recall of that meeting, that is, was it an evening -- tell us the story of that evening?

A I believe I tried to call him at home and I could not reach him and I called his -- where he was employed in Connecticut. He could not come to the telephone but they said that he would be off at a certain time.

Q Where were you at that time?

A I believe I was in my office.

Q In Chinatown?

A That's right.

Q All right.

A I got the directions to the restaurant --

Q Had you ever been there berore?

A No, I had not. And I believe it was about nine o'clock when I started to go. I believe I called the wife of a friend of a mine, a childhood friend of mine --

Q Where did they live?

A They lived right in Chinatown. And I asked if she would go with me, because she has friends in Connecticut and had been there, and I have trouble readin signs at night.

Q All right.

A We went up to Connecticut and I believe we sat down and we asked one of the waiters to tell Brian that we wanted to see him.

And he came out and he said when he finished he would come -- I think when he would finish work and change he would come and meet us.

He came out and we spoke about -- I told him that Alice Aviles, one of the girls, had threatened to

blackmail me and that if I did not pay her, which I wasn't going to do, she was going to attempt to get all the girls together to go to Immigration and make accusations against me.

A And I told him that Immigration might be questioning him on this and that he would have the right to -- for me to appear with him and all he would have to do is tell the truth.

Q Did you have that conversation inside the Cobs Mill Inn?

A No, I believe we walked outside.

Q Did you get in a car and drive to a post office somewhere and have that conversation?

A No, we did not.

Q Did you drive Brian Yeung into New York that night?

A To his home in the Bronx. He asked me to.

Q How did that come about?

A He just asked me to and I did it.

Q Mr. Chu, do you have an idea of what your total fees -- what is the total of the fees that you collected in connection with your services on each of these -- on all these marriages together?

A It was a retainer of $375 on each.

Q That is $375?

A That's correct.

Q When these marriages were made, after you had talked to these people before they were married, that is, the various spouses, what was your view with regard to the success of these marriages?

A I thought they would succeed as a marriage.

Q Can you give your reasons, if you can recall?

A Well, I believe on the Mildred Fan -- Wun Fan Chiu marriage, he was very anxious to have a home and she was not working at the time, I believe, and she wanted someone to be with and to support her.

On the Jout marriage, Carmen Miranda-Jour marriage, I believe they both were attracted to each other.

On the Francesca Torres-Tommy Yu marriage, I thought it was a marriage that was more arranged by Tommy's father than by he, and it is more like the Chinese custom where the father arranges a marriage and the son goes along with it.

Q How about Cruz and --

A The Imgard Cruz-Brian Yeung marriage, I think that was something where Brian wanted a home, she wanted someone to support her and the baby, and Brian wanted to

support the two of them, and I thought that it would work out.

Q Of course, you did not see Hernandez until after they were married, is that right?

A That's correct.

MR. FLEMING: I have no further questions.

THE COURT: Let's take our morning break now, ten minutes.

(Recess.)

(After recess)

(In open court; jury present)

G E N E L O Y C H U resumed.

MR. KINGHAM: May I inquire, your Honor?

THE COURT: Surely.

MR. KINGHAM: Thank you.

CROSS-EXAMINATION

BY MR. KINGHAM:

Q Mr. Chu, how long have you been practicing before the Immigration and Naturalization Service as a lawyer?

A I believe about maybe 15 years.

Q During those 15 years of practice before immigration have you represented clients in the various types of immigration proceedings that there are?

A Yes, I did.

Q Including deportation proceedings, I-130 petitions --

A Yes.

Q Naturalization petitions, that sort of thing?

A Yes, that's right.

Q I believe you testified on direct examination that your understanding was that if parties had gone through a valid marriage according to the state in which

they reside,and if they lived together and intended this to be a marriage, and if the husband was going to support the wife, and the wife was going to keep a home for the husband, that would make it a valid marriage; was that your testimony on direct examination?

A I believe it was.

Q And you testified that thatwas your opinion with respect to the validity of marriages insofar as the immigration service was concerned, is that correct?

A That is correct.

Q On what was your opinion based?

A On experience that I had and also discussions I have had with immigration interviewers.

Q Have you ever researched decisions of the board of immigration appeals in connection with your practice?

A No, I didn't.

Q In your 15 years of practice you have never researched one opinion of the board of immigration appeals, is that your testimony?

A That is correct.

Q Have you ever read or researched any opinion of the federal courts as they relate to immigration matters in connection with your practice?

A No. It has never been necessary.

Q Is it your testimony that you have never done it in the 15 years that you have been a lawyer before the immigration service?

A That is correct.

Q Did you also testify on direct examination yesterday afternoon, Mr. Chu, that in your opinion sexual relations weren't necessary or weren't essential for a valid marriage to make somebody a permanent resident?

A That is correct.

Q Was that your opinion in 1973?

A Yes, it was.

Q On what was that opinion based?

A Based on my experience.

Q Did you learn that from any opinion of the board of immigration appeals or any federal court?

A No.

Q With respect to the five, I believe it is, Mr. Chu, marriages that we have had testimony about in this trial, did you know that the aliens, that is the Chinese gentlemen, wanted to obtain permanent residence in this country?

A Yes, I did.

bsr4 Chu-cross

Q Did you know that that was the only reason for those marriages?

A No, I didn't.

Q None of those Chinese men ever told you that?

A Told me what?

Q That that was the only reason that they wanted to get married.

A No.

Q Did any of the Chinese men ever come to you and say "I want to marry an American girl so I can get the permanent residence"?

A Yes, they did.

Q Did Michael Fan come to you and say that?

A You mean Wun Chiu Fan?

Q I'm sorry, Wun Chiu Fan.

A Yes.

Q Did Brian Yeung come to you and say that?

A Yes.

Q Did John Jout come to you and say that?

A Yes.

Q And he came with Jimmy Yu, did he not, to your office?

A That is correct.

Q Did Tommy Hu come to you and say that?

A No, he didn't.

Q Did Perry Chang say that to you?

A No, he didn't.

Q Did Perry Chang tell you why he wanted to get married?

A No, he didn't.

Q You testified on direct examination that you met Perry Chang before he was married to Elizabeth Hernandez, is that correct?

A Right.

Q How did you come to meet him?

A Through Jimmy Yu.

Q Would you explain the circumstances?

A Jimmy Yu brought him to my office and told me that Perry was going to marry a citizen.

Q That was the first you knew that Perry wanted to get married, is that correct?

A That is correct.

Q Did any of these Chinese men express to you any reason other than getting a green card as a reason for why they wanted to get married?

A Yes.

Q Are those the reasons you testified about on direct examination this morning?

bsr6 Chu-cross

A Yes.

Q Some of them wanted to have a home here, is that correct?

A That is correct.

Q But you knew that these men wanted to remain in this country, is that not correct?

A Yes, I did.

MR. FLEMING: That's been asked about four times.

THE COURT: Either been asked at least once.

Q Mr. Jout had family in this country, did he not?

A Yes, he did.

Q His siter lived in Long Island?

A Yes.

Q In fact, he had two sisters living in Long Island, if you recall?

A I was only aware of the one.

Q You testified that you went to meet Alice Aviles on Pitt Street, is that correct?

A That's right.

Q How did you know where to meet her?

A She told me.

Q Had you ever been there before?

A I don't think I ever drove by there before.

Q You had known Alice Aviles prior to the time she called you on the telephone, had you not?

A Yes, I did.

Q When did you first meet Alice Aviles?

A It was shortly before she was married.

Q Whom did she marry?

A Mat Kid Ming.

Q At about the time she was maried was that when you met Francesca Torres?

A I believe so.

Q Did you know at that time that Francesca Torres and Alice Aviles were living together?

A I don't think so.

Q Did you know at that time that Francesca Torres was gay?

A No.

Q Did she ever tell you that?

1hr2 Chu-cross

A No.

Q Did anyone ever tell you that Francesca Torres was gay?

A Not in those words.

Q What was said to you in that connection?

A I believe John Jout, the husband of Carmen Miranda, told me that they had an unusual relationship.

Q Was it your testimony this morning that you didn't hear that until June of 1975?

A I believe -- I think it might have been possibly a little before June. I don't remember exactly.

Q Wss it in connection with John's trying to get a divorce from Tracy?

A Yes, it was.

Q When he first came to you and complained about the nature of Tracy and Frances' relationship, is that correct?

A Yes, that is correct.

Q Is it your testimony that prior to that time you had never heard nord i you have any idea that Frances was gay?

A That's correct.

Q Prior to June of 1975 or thereabouts, did you

know that Tracy was gay?

A No, I didn't.

Q Isn't it the fact, Mr. Chu, that you knew all during that period that Tracy and Frances lived together as lovers in Brooklyn?

A I didn't.

Q You had no idea?

A No, I didn't.

Q How many times in 1974 was Tracy in your office?

A I would say possibly three or four times. I don't remember exactly.

Q After her marriage in 1973, how many times was she there?

A Possibly once or twice.

Q Who would she come with when she came there?

A Sometimes with her husband and sometimes alone and I believe sometimes with Fran.

Q How many times did she come with Fran?

A I would say possibly three or four times.

Q On the three or four times that she came with Fran, you knew that Tracy was living in Brooklyn?

A Yes.

Q And you knew that Frances was living in

lhr4 Chu-cross

Brooklyn, didn't you?

A Not at that time.

Q Where was Frances living at that time, to your knowlddge?

A To my knowledge she was living in the Bronx.

Q You have testified this morning both on direct and cross-examination, if I am correct, as to your understanding of the reasons why the Chinese gentlemen got married, is that correct?

A That's correct.

Q Do you know the reasons why their spouses, that is the women, got married?

A Just what I believed.

Q What you believed?

A I believed that they wanted someone to support them.

Q Were any of these women paid any money in order to get married, to your knowledge?

A Yes, they were.

Q Were they paid money in monthly payments or were they paid money in bulk payment?

A I believe they got a bulk payment and they also got money monthly.

Q Did you know at the time they were married,

that is the time they came to your office after having been married, did you know at that time that they had received money for getting married?

A Yes, I did.

Q Indeed, Mr. Chu, isn't it the fact that you were part of the agreement to pay the money to get married?

MR. FLEMING: I object to the form of that question.

THE COURT: I don't know what "part of the agreement"means.

MR. KINGHAM: I will rephrase it, your Honor.

Q You have heard testimony in the government's case, have you not, Mr. Chu, from some of the government witnesses, that they had spoken to you before they got married about obtaining money for being married?

MR. FLEMING: That's improper in form too. I object to it.

MR. KINGHAM: I am just asking if the witness recalls the testimony, your Honor.

MR. FLEMING: That's improper in form.

THE COURT: Ask him as to the fact.

Q Mr. Chu, did you at any time pay any money

to any of the spouses in the five marriages, any money for them to get married? Did you pay any money to them?

THE COURT: You mean did he deliver it or --

MR. KINGHAM: Did he deliver any money to the girls.

A Yes, I did.

Q On the occasions where you did deliver such money, was that the day of the wedding, if you recall?

A Yes.

Q Did you deliver money in all of the five marriages about which we have had testimony?

A No, I didn't.

Q In which ones did you deliver money and in which ones did you not deliver money?

A I believe the Perry Chang matter, I didn't.

Q Is it your testimony that in the other four marriages you did deliver the money, is that correct?

A I believe so.

Q Do you recall how much money you delivered in connection with each of the marriages and to whom you gave it?

A I believe the money was given to the citizen spouse and it was 1500, I believe, in each marriage.

Q Was it in cash or by check?

A Cash.

Q Where did you get the money to deliver to the citizen spouse?

A It was given to me by the husband-to-be, with the exception of the Tommy Hu marriage, that money was given by either his uncle or his father, I don't remember exactly.

Q In the Tommy Hu marriage, was $1500 delivered by you to Frances Torres?

A I believe it was 1500, although she says it was 12. I don't recall the exact amount.

Q But you delivered the money?

A Yes, I did.

Q In connection with your immigration practice, Mr. Chu, did you know the general purpose of the I-130 program?

A Yes, I did.

Q Did you know that it was the burden of the couple to prove to the immigration service that they were living together as husband and wife?

A I didn't quite understand that it was the burden of the couple.

Q Mr. Chu, had you accompanied, or, as you

testified --

MR. KINGHAM: I am sorry, your Honor, let me rephrase that.

Q You testified on direct examination, did you not, that you accompanied certain of these couples to their interview at immigration?

A That's correct.

Q At any of the interviews that you accompanied any of these couples to, was an explanation given by the immigration officer as to the purpose of the interview?

A Yes, it was.

Q On any of thoese occasions did the immigration officer explain to the couple in your presence that they had to prove to the immigration officer that they were living together as husband and wife?

A I think it was more that the immigration service had to be satisfied that they were living together.

MR. KINGHAM: Your Honor, may I have the question answered?

THE COURT: Can you answer the question yes or no?

THE WITNESS: May I have the question?

(Record read)

THE WITNESS: No, I don't think so.

Q Do you recall the testimony of Virginia Miller, the immigration officer who testified a couple of days ago?

MR. FLEMING: That's improper in form, your Honor. I object to it.

THE COURT: Let's see where it is heading. You can answer. Do you recall hertestimony, at least in general?

THE WITNESS: Yes, I do.

Q Do you recall her at any time in your presence telling a couple that they had to prove to her that they were married?

A No, I don't.

Q Mr. Chu, you testified, did you not, on direct examination that you advised each of the couples in connection with their I-130 petition that they should be living together, is that correct?

A That's correct.

Q Did you know at the time you advised them that that would be one of the things that the immigration officer would look for, that is whether or not they were living together?

A That's right.

Q Did you not also advise those couples that the husband had to have some clothes around the house?

A No, I didn't.

Q Did you not also advise those couples that they had to make it look like they were living together?

A I didn't.

Q Mr. Chu, you testified, did you not, this morning, on direct examination that you charged each of the aliens in connection with their marriages $375 fees, is that correct?

A That's correct.

Q Did you obtain any other money from any of those aliens for your services other than the $375 fee?

A I believe on the Jout-Carmen Miranda marriage, he paid me the full fee, $750. In other words, he paid me the full fee rather than waiting and paying the balance when the case was approved.

Q What do you mean by the full fee and the balance --

A I quoted him a total fee of $750, and they paid $375 upon retaining me as attorney and the balance wasn't due until the case was approved.

Q By the case being approved, do you mean when

the alien would get his green card?

A That's correct.

Q Mr. Chu, is it your testimony, then, that on no occasion did you charge a $1000 fee in connection with any of these cases?

A I think in the Brian Yeung case I charged $1000 and he gave me $500.

Q Did he ever give you the additional $500?

A No, he didn't.

Q When did he give you the $500?

A I believe it was either when he retained me or shortly after that. I don't recall exactly.

Q Did he ever give you an additional $200?

A No, he didn't.

Q Did he ever give you any money for Jimmy?

A No, he didn't.

Q Did you ever tell him you wanted money for Jimmy?

A No, I didn't.

Q With respect to each of the aliens who were initially your clients -- is that correct, Mr. Chu? You generally first meet the alien, is that right?

A That's correct.

Q The alien would be referred to you by someone

else and you take them as a client, is that right?

A That's correct.

Q In connection with the receipt of money from the aliens, and taking as an example Tommy Hu, did you obtain $375 from Tommy Hu?

A I think I got it from his uncle or his father. I don't think Tommy paid it.

Q Did you get it in cash or in a check?

A Cash.

Q Did you give him a receipt?

A I didn't.

Q Do you have any record of the receipt of that payment?

A Yes, I do.

Q What kind of a record do you have?

A I make a notation on my envelope, a file envelope.

Q Do you have that file envelope?

A I believe I do.

Q Where is that?

A I think it is in my office, I believe.

Q With respect to the Carmen Miranda-Jout marriage, did you initially obtain $375 from Mr. Jout?

A No. I told you I received $750.

Q Did you obtain $750 all at once from him, if you recall?

A I believe that in that particular case he gave me part of it, he told me that Jimmy would pay me the balance.

Q Did you get the balance from Jimmy?

A I believe I did.

Q By Jimmy do you mean Jimmy Yu?

A That's correct.

Q How long had you known Jimmy Yu, at that time, which was August, 1973?

A I would say probably more than ten years.

Q Was he also a client of yours, Mr. Yu?

A Yes.

Q Did you make any record of the receipt of the $375 or whatever money you got from Mr. Jout, did you make any record of receiving that payment?

A Yes.

Q Where did you make that record?

A On the file envelope.

Q Do you have that file envelope too?

A Yes, I do.

Q Did you make any record of receiving money from Wun Chiu Fan, Mr. Fan?

A Yes.

Q How much did you get from him?

A I received $375 from him when he retained me, but I also received an additional $325 when he got his divorce, when he was going to get the divorce.

Q Did you get it in cash or check, those receipts from Mr. Fan?

A Cash.

Q Did you give him a receipt for that money?

A No, I didn't.

Q Did he ask you for a receipt?

A He didn't.

Q Did you make any record of receiving that money from Mr. Fan?

A I believe I made a record of the $375 but I didn't make the record of the $325 because all -- it was a check exchange. I didn't charge him a fee and I just sent the check to the attorney for it.

Q That was the attorney in Haiti?

A I sent it to a forwarding attorney in Brooklyn who forwarded it in turn to Haiti.

Q Do you have a copy of that check?

A I probably must have.

Q I am sorry, I have forgotten, how much did you

receive from Brian Yeung?

A I believe it was $500.

Q Did you make a record of that?

A Yes, I did.

Q Where is that record?

A On the file envelope.

Q Do you have that also?

A Yes, I do.

Q We have heard testimony, have we not, Mr. Chu, that there were five I-130 petitions filed in this case?

A That's correct.

Q Four during 1973 and one during 1974, is that right?

A I am not sure whether the last one was '75 or '74. It was toward the end of the year.

Q The Brian Yeung petition?

A Yes.

Q The others were in 1973, is that right?

A Yes.

Q Did you file any other I-130 petitions in 1973?

A I believe I did.

Q How many?

A Are you talking just I-130 or this type of I-130?

Q This type of I-130, spouse petitions.

A I would guess maybe five or six more.

Q Did you file such a petition for Alice Aviles and her husband, Mr. Mok?

A Yes, I did.

Q Did you file such a petition in connection with a marriage between Anna Rose Rodriguez and William Ho?

A Yes, I did.

Q Who introduced them to you?

A Jimmy Hu.

Q Did you file a petition in connection with a marrage between a Chinese man named Chia and a woman named Sonia Irizarry?

A Yes, I did.

Q Did you also file a petition for Anthony Chan and Yolanda Cintron?

A Yes, I did.

Q Did you, Mr. Chu, charge each of those couples $1000 for their petitions?

A No, I did not.

Q You charged only $375 at the beginning and $375 at the end; is that right?

A That's right.

Q Do you have a record of those payments?

A Yes, I do.

Q Were those payments in cash or by check, if you know?

A I believe they were all cash.

Q In 1974 do you know how many I-130 spouse petitions you filed?

A I would just guess. It might have been about three or four.

Q Did you file one for a couple named Chin On and Edelz Sanianocencia?

A Yes, I did.

Q Was that in January, 1974, do you recall?

A I don't recall the date.

Q Did you file one for a man named Mr. Yim and a woman named Evelyin Flores?

A Yim?

Q Yim.

A I recall Evelyin Flores. I don't think that's her husband's name.

Q Did you file a petition on behalf of Evelyn Flores and a Chinese alien?

A Yes, I did.

Q Were you paid $1000 in connection with the petitions you filed in 1974?

A With that one?

Q The Flores petition.

A I was paid $1000, yes.

Q The Edelz Sanianocencia petition?

A Is that the Chin On one?

Q Chin On.

A I believe I was paid $375 for that.

Q Were those payments in cash or by check?

A Cash.

Q Who made the payments to you, the citizen or the alien?

A The citizen -- no, I am sorry, the alien.

Q The Chinese man?

A Yes.

Q Do you have any record of those payments?

A Yes, I do.

Q When you would receive the cash and make a record of the payments in connection with these spouse I-130 cases, what would you generally do with the cash you received?

A My fee, you mean?

Q With the cash that you received for your fee.

A Sometimes I would spend it, sometimes I would deposit it.

Q Where would you deposit it, if you deposited it?

A In a bank account.

Q What bank account?

A It might have been my attorney bank account, it might have been another account.

Q Where is your attorney account?

A At the Chemical Bank.

Q In Chinatown?

A Yes.

Q Do you have any other bank accounts?

A Yes.

Q Where are they?

A National Bank of North America.

Q Where?

A 50 Bayard Street.

Q In Chinatown?

A Yes.

Q Any other banks?

A Yes.

Q Where?

A Manhattan Savings Bank.

Q Also in Chinatown?

A Just outside Chinatown.

Q Any other?

A Columbia Savings & Loan Association.

Q Where is that?

A Forest Hills.

Q You live in Forest Hills, do you not?

A That's right.

Q You live in Forest Hills Gardens?

A No, I do not.

Q You own your own home in Forest Hills?

A That's right.

Q How long have you owned that home?

A About ten years.

Q You testified I believe you have two children?

A That's correct.

Q Are they of high school age?

A My son is in high school.

Q Where does he go to school?

A Kew Forest.

Q Is your daughter in school?

A Yes.

Q Where does she go to school?

A She goes to Kew Forest.

Q Is that a private school or a public school?

A It is a private school.

Q You pay tuition for them at that school?

A That's correct.

Q Mr. Chu, in connection with your practice as an attorney, do you keep a diary indicating what appointments

that you have for people?

A Yes, I do.

Q Did you keep such a diary in 1973 and 1974?

A Yes, I did.

Q Did you note in that diary in advance the time when people were supposed to come and see you?

A Usually I did.

Q If people came without an appointment, would you note in your diary also that they had come to see you?

A No, I did not.

Q Did you make a notation of telephone calls that you received, either in your diary or any other place?

A No, I did not.

Q If a client called you in connection with a case, would you write down the nature of the phone conversation and put it in your case file?

A Usually not.

Q By the way, did you maintain case files on all of these I-130 spouse petition cases?

A Yes, I did.

Q You would have a file folder and keep copies of the documents in it?

A Yes.

Q That would be the same folder that you would write the amounts that you received from the couple on; is that correct?

A From the husband.

Q I am sorry, from the husband.

A That's correct.

Q I believe you testified that in connection with four of the marriages that there has been discussion about, you received cash from the alien, that is the Chinese man, in addition to the money for your fee; is that correct?

A That's correct.

Q You received that money before the marriage, if you recall?

A I am not sure whether they all were before or at the time.

Q Did you receive that money in your office or somewhere else?

A In my office.

Q Taking, for example, Wun Chiu Fan, Mr. Fan, I believe he testified he gave you $1,500 in cash?

A That's correct.

Q What did you do with that cash when you got it?

A I usually put it in an envelope and put it in

the file folder.

Q Did you follow the same procedure in the other situations where you received cash from the alien?

A I believe so.

Q Did you know at the time that they gave you the cash what the cash was supposed to be for?

A Yes, I did.

Q What was it supposed to be for?

A It was to be given to the wife.

Q On the day of the wedding?

A Yes.

Q You testified that you did so; is that correct? You would give the wife the money?

A That's correct.

Q On any of the occasions that you gave a wife money, was Jean Fong present in your office?

A I believe she was.

Q You testified on direct examination that you never saw her receive any money; is that correct?

A That's correct.

Q On your oath?

A Yes, sir.

Q How did you first meet Frances Torres?

A I believe it was through Jean Fong.

Q Before Frances was married?

A Yes, I believe so.

Q How long had you known Jean Fong at that time?

A I would say probably 10, 12 years.

Q You knew her from the Chinatown area?

A Yes.

Q Did you know Jean Fong's husband?

A Yes, I did.

Q What is his name, by the way?

A George.

Q George Fong?

A Right.

Q Do you know where they lived at that time, 1973-'74?

A Yes, I do.

Q Where?

A 169 Allen Street.

Q Do you know if Mrs. Fong has any children?

A Yes, she does.

Q Does she have a daughter named Mary?

A I think I have always called her Jeannie, the daughter.

Q Does she have any other children than the one?

A I believe she has three sons.

Q They all live on Allen Street with Mrs. Fong, if you know?

A I know two do. I don't know about the other.

Q When you met Frances Torres, was Jean Fong the only person present?

A Would you repeat the question?

I am sorry.

Q On the day you met Frances Torres, was Jean Fong the only other person present?

A I don't remember.

Q Where did the meeting take place?

A I believe it was at my office.

Q Did you tell Frances Torres that she would receive $3,500 for marrying a Chinese man?

A I think she --

Q Answer yes or no, please.

A No, I didn't tell her.

Q Did you tell her not to worry about having sex with the Chinese man? Did you tell her that?

A No, I did not.

Q Did you know she was there because she wanted to marry a Chinese man?

A Yes, I did.

Q Did you tell her she would have to live with him

to make it look like a real marriage?

A No, I did not.

Q Did you also tell her at that time or did you tell her at that time that she can get divorced when her husband got his green card?

A No, I did not.

Q You deny that on your oath?

A Yes, I do.

Q Tommy Hu was not present at the time that Frances was first introduced to you, was he?

A No, he was not.

Q In fact, did you not later on introduce them to each other in your office?

A Yes, I did.

Q Who was present at that introduction?

A Tommy Hu, John Fung, Tommy Hu's uncle, and Tommy Hu's father.

Q John Fung, Tommy Hu's uncle, lives up in the Bronx on the Grand Concourse, if you know?

A I think he does.

Q Was Jean Fong present at the time Tommy was intorudced to Frances?

A Yes, I believe she was.

Q That was in your office?

A That's right.

Q Was there a conversation at that time about the manner in which Frances was to be paid by Tommy for getting married?

A Yes, there was.

Q Did Tommy Hu give you any money at that time or did his uncle give you any money?

A I believe either his uncle or his father. I am not sure.

Q Gave you $1,500; is that correct?

A As I say, it was either 1500 or 12. I don't remember.

Q In cash?

A Yes.

Q And you put it away to hold until the marriage; is that right?

A That's right.

Q Did he not also give you another $1000 for your fee at that time?

A No, he did not.

Q You deny that under oath?

A Yes, I do.

Q The day they were married, did they come to your office?

A Yes, they did.

Q Did Frances sign the I-130 petition?

A Yes, she did.

Q Let me show you Government's Exhibit 9-B in evidence, Mr. Chu. That is the I-130 petition for Frances Torres on behalf of Tommy Hu, is it not?

A That's right.

Q What was the date of their marriage?

A July 19, 1973.

Q Do you recall generally that they were married some time in July, other than what is on the form, do you recall that?

A I honestly don't.

Q But the form refreshes your recollection that they were married July, 1973, does it not?

A Yes.

Q Because indeed you put that information on the form, did you not?

A Right.

Q How long before the date of their marriage on JUly 19, 1973 did you introduce this couple to one another?

A I would guess it might have been about three weeks before.

Q At the time you introduced them did you tell them to go out and get blood tests?

A I don't recall whether it was at that meeting or maybe a subsequent meeting. I don't recall.

Q But you did tell them that?

A Tell them to get blood tests?

Q Yes.

A At some time I did.

Q Before their wedding?

A Yes.

Q Did you tell them also they would have to go to City Hall to register or fill out a license application?

A I don't recall whether I told them that.

Q Did you tell them that Frances would need a birth certificate?

A Yes, I did.

Q Did you also tell them that Jean Fong would take them around for the blood tests and to City Hall and to get the birth certificate?

A I didn't tell them that.

Q You did not tell them that?

A No, I did not.

Q Mr. Chu, what date does the bottom of that form say it was signed on by Frances Torres?

A July 23.

Q The date of their wedding was July 19, 1973; is that right?

A That's right.

Q That's the day they signed the form, isn't that correct?

A On the 19th, that's correct.

Q That is when Frances signed the form?

A That's correct.

Q On this form, Mr. Chu, that's Government's Exhibit 9-B in evidence, I will give it back to you so you can look also, does it not say, "I swear or affirm that I know the contents of this petition signed by me and that the statements herein are true and correct," signature of petitioner, "Frances Torres Hu," it says that on the form, does it not?

A I believe.

Q So you are sure, take a look.

A That's right.

Q At the time Frances Torres signed this form, it was blank, was it not?

A That's correct.

Q It had none of the information typed in on it, did it?

A That's right.

Q Did Frances Torres read this form before she signed it in your presence?

A No, she did not.

Q You just told her to sign it; is that correct?

A Yes.

Q Am I correct, Mr. Chu, that underneath that, underneath her signature, it reads as follows:

"Subscribed and sworn to or affirmed before me this 23rd day of July, 1973, New York, New York. My commission expires March 30, 1974," signature, "Gene Loy Chu," and your stamp as a notary public?

A That's right.

Q It says that on the form, does it not?

A Yes.

Q It is not true, is it? It wan't signed on July 23?

A No, it was not.

Q But you told Immigration on the form that it was signed on July 23rd?

MR. FLEMING: Objection to that.

Q Did you not?

THE COURT: The form speaks for itself.

It has just been read.

Q Mr. Chu, you testified on direct examination, did you not, that the reason this is not dated the day it was signed is because you would date it the day it was typed; is that correct?

A That's correct.

Q Isn't it also true, Mr. Chu, that the reason that this is post-dated was because you did not want the Immigration Service to know that this couple had come to your office on the day they were married?

A No, it is not.

Q You deny that under oath, sir?

A Yes, I do.

Q How long have you been a notary public?

A I would guess maybe 18, 19 years.

Q Almost as long as you have been practicing as a lawyer; is that correct?

A That's correct.

Q Have you notarized thousands of documents?

A I would guess so.

Q Would you say many, many documents?

A I would guess so.

Q At the time you became a notary public, did you take an oath, sir?

A I signed a form.

Q And you sent the form in?

A That's correct.

Q You subsequently became a notary?

A That's right.

Q On the form was there not an oath?

A Yes.

Q If you recall?

A I think there is.

Q Do you remember what the terms of that oath were in general?

A I honestly do not.

Q Did that oath not make you a public officer of the State of New York?

A I believe so.

Q Did you believe that as a notary public you were a public officer of the State of New York?

A Yes.

Q At least to th-t extent?

A Yes.

Q Authorized to take oaths and acknowledgments; is that correct?

A Yes.

Q Authorized to swear people to documents?

A That's right.

Q At the time you became a notary, did you get any instructions in connection with what your duties were supposed to be?

A Not really, no.

Q Can you explain that answer?

A I think as an attorney I automatically qualified.

Q Were you told, for example, or did you know that when you notarize a person's signature, the person is supposed to be in front of you at the time you notarize it?

A Yes, I do.

Q And that you are supposed to fill in the date on which the notarization is made, did you know that?

A Yes.

Q Did you know that in 1973 when you notarized this document?

A Yes.

Q By the way, the day this form was signed, that is the date of the wedding between Tommy Hu and Francesca Torres, was Jean Fong in your office at that time when it was signed?

A I believe she was.

Q On that day was she present when you delivered

cash to Frances Torres?

A I believe she was. She may have walked out to the bathroom.

Q What's your best recollection?

A I think she was there.

Q But you didn't see her get any money?

A I did not.

Q There did come a time, did there not, Mr. Chu, when Frances and Tommy were supposed to go down to Immigration for an interview?

A That's right.

Q Was that interview some time in mid-March, 1974, if you recall?

A I don't remember exactly the exact date.

Q Let me refresh your recollection, if I may. Let me show you what is Government's Exhibit 11 for identification. Tell me if this refreshes your recollection, Mr. Chu, as to the date of the interview? Second paragraph.

A Yes.

Q What was the date of the interview?

A January 30, 1974.

Q Before that interview you asked this couple to come to your office, did you not?

A That's right.

Q The Hu's received a notice that the interview was going to take place?

A That's right.

(Continued on next page.)

Q You received a copy and the copy would be sent also to the couple; is that correct?

A That's correct.

Q How many times before the interview on Januarh 30, 1974 did you have Frances and Tommy in your office together?

A I believe they came in when they were married, and one other time.

Q Before the date of the interview?

A Right.

Q On that time when they came in before the day of the interview, did you tell them what questions they could expect to be asked at the interview?

A Yes, I did.

Q Did you ask them what answers they were going to give?

A I think I asked Tommy, because I just wanted to see if he understood enough English, whether he needed an interpreter or not.

Q It is your testimony you had only one such session with this couple, is that right?

A That's right.

Q Before that time, that is, before the practice session you had with this couple, had you been through

interviews in Immigration before with other clients?

A Yes.

Q This was not your first interview?

A No.

Q Did you not tell Tommy what you expected the questions to be based on your experience of going through other interviews?

A Just generally what they would be, ye.

Q Did you not ask Tommy and Frances what they would say if Immigration should ask them how they met?

A No, I did not.

Q Had you ever been to an interview before that, before the Torres-Hu interview, where Immigration had asked how a couple had met?

A Yes.

Q Isn't it a fact that that is one of the things Immigration almost always asks?

A No.

Q But they had asked it in your presence?

A On this --

Q On other interviews?

A Yes, they had.

Q But you did not tell Tommy and Frances to expect that question, is that correct?

MR. FLEMING: I think he said that.

THE COURT: No. He said he didn't tell them what to say.

I will permit it.

Did you tell them to expect that question?

THE WITNESS: I don't think I did.

Q You testified on direct examination, did you not, Mr. Chu, that they were indeed asked how they had met by the Immigration inspector or officer?

A That's right.

Q Was that Mary Griffith, the one who testified here, do you recall?

A I don't recall.

Q See if this refreshes your recollection as to who the officer was who interviewed them?

A I don't recall.

Q You don't recall independently of that?

A No.

Q When they were asked how they had met, did they tell the truth?

A No, they did not.

Q They told a story that they had met through some girl friend named Saleno, is that right?

A I think so.

Q You have had a chance to look at these notes, or a copy of them before, have you not, sir?

A No, I did not.

Q I mean before today.

Let me call your attention to the first item of that exhibit, which are the notes of the interview.

Does that refresh your recollection as to what story they told about how they met?

A Yes.

Q At the time they told that story about meeting in Saleno's house, you did not stop them, did you?

A NO, I did not.

Q After the interview had finished of the first person to tell the story, that is, Frances, I believe -- correct me if I am wrong -- do the notes indicate that Frances spoke first?

A It has her name on the first page. I don't know whether that indicates that she spoke first.

Q In any event, there was no discrepancy as to the story as to how they met, no discrepancy noted on the form there, is there?

A It has a column for what I believe Frances, and it doesn't say anything about Hu here.

Q Tommy Hu, is that correct?

A Right.

Q There are other places in the notes where there are discrepancies noted in the right-hand column for Tommy Hu, is that correct, not on the first page but other pages in the notes have some discrepancies noted, do they not?

A She doesn't state discrepancy on it. I don't know what it is. She has DOB or DOM; I don't recall what that means.

Q We can get away from the document for a minute.

Do you recall that both parties gave the same story as to how they met?

A Yes, I believe they probably did.

Q And both parties did not tell the truth, is that correct?

A That's correct.

Q One party was interviewed first, isn't that right?

A That's correct.

Q And as you sit there, do you recall which one was interviewed first?

A I don't recall.

Q Mr. Chu, after the first person was interviewed and gave that story, did you at that time tell the other

person not to be interviewed?

A No, I did not.

Q Did you tell the other person that you believed or knew that the first person had told a lie?

A No, I did not.

Q Is it your testimony that the first time you heard that story about Saleno was when you were sitting at the interview with the Immigration investigator?

A That's correct.

Q You never heard that story in your office, is that your testimony?

A Never.

Q And you never told this couple how to make up a story about how they met?

A I did not.

Q You deny that under oath, sir?

A Yes, I do.

Q I believe you testified, Mr. Chu, about the Mildred Miranda-Fan marriage as well; do you recall testifying about that one?

A Yes, I do.

Q At about the time you met Mildred Miranda did you have a client named Jeannette?

A I believe so.

Q Was she a client in connection with an estate matter, that is, her husband had died and you were handling some estate work for her?

A That's right.

Q Who referred Jeannette to you?

A I believe Jean Fong did.

Q When you first met Jeannette was Mildred Miranda with her?

A I honestly don't recall.

Q Do you recall who was present the first time you met Mildred Miranda?

A I do not.

Q I am sorry, I didn't hear you?

A I do not. I think probably Jean Fong.

Q Prior to the time you met Mildred had you met her sister Carmen?

A I don't recall the order, which one I met first.

Q Did you introduce Wun Chiu Fan to Tracy, that is, Carmen Miranda's sister -- I am sorry, Mildred Miranda's sister, Carmen, did you introduce Mr. Fan to Tracy before you met Mildred Miranda?

A Before I met Mildred Miranda?

Q Before you met Mildred had you introduced

Mr. Fan to her sister Tracy?

A I don't recall that, no.

Q You've testified that you received from Mr. Fan approximately $1500 in cash to be used in connection with the marriage, is that correct, sir?

A Exactly $1500.

Q $1500 in cash. And after accepting that money, or taking that money from Mr. Fan, did you subsequently introduce him to a United States citizen?

A I think he met Mildred before he gave me the money.

Q Did you ever introduce Mr. Fan to Tracy, Mildred's sister?

A I may have introduced him.

Q Did you introduce them for the purpose of having Tracy marry Mr. Fan?

A I don't think so.

Q Do you recall the first time you met Tracy -- I mean -- by Tracy I am talking about Carmen Miranda?

A Yes.

Q Do you recall the first time you met her?

A Not exactly, no.

Q Do you recall who was present?

A I believe Jean Fong was present, but --

Q Wasn't Frances Torres also present?

A I don't recall.

Q Did there come a time when you and Jean Fong and Frances Torres and Tracy and Wun Chiu Fan had a conversation in your office?

A I don't recall.

Q Did you not introduce Fan and Tracy for the purpose of getting Tracy married to Fan?

A MR. FLEMING: Objection. That surely has been asked and answered, your Honor.

If I am wrong -- I think I am right, but I will withdraw the objection.

THE COURT: I believe it has been, but I will permit it anyway.

MR. KINGHAM: The witness says he doesn't recall, your Honor. I am trying to probe his memory.

A I don't recall, your Honor.

MR. FLEMING: Can Mr. Kingham establish whether that answer means a failure of recollection or whether it means no? I am not sure myself.

MR. KINGHAM: I'm not either. I will let the answer stand, your Honor.

I will withdraw the previous question.

THE COURT: All right.

BY MR. KINGHAM:

Q Is it your testimony, Mr. Chu, that you were present at the introduction of Mr. Fan to Mildred Miranda?

A Yes, I believe I was.

Q Before that introduction did you have any conversations with Tracy, Mildred's sister, about her getting a birth certificate?

A I don't recall.

Q Did you have any conversation with Tracy about anything before you introduced Mildred to Mr. Fan?

A I don't know whether I met Tracy before I met Mildred.

Q Before the date you introduced Mildred to Mr. Fan did you have any conversations at all with Tracy, that you recall?

MR. FLEMING: Your Honor, maybe it is the hour, but --

THE COURT: He says he does not recall having met Tracy before, so he obviously could not recall having a conversation with her before.

MR. KINGHA: I won't argue the point, your Honor.

Q Did you ever have a conversation with Tracy about her getting a birth certificate?

A Yes.

Q Did you tell Tracy that she had to get a birth certificate in order to get married?

A Not in order to get married, no.

Q Did you tell Tracy she had to get a birth certificate so that an I-130 petition could be filed?

A Yes.

Q Did you tell her that in connection with her meeting her eventual husband, Mr. Jout?

A Yes.

(Continued on next page.)

Q Did you tell her about getting a birth certificate any time before the meeting with Mr. Jout?

A I don't think so.

Q Mr. Chu, do you have any knowledge or recollection as you sit there today, that there was supposed to be a marriage between Tracy and Mr. Fan?

A No, I do not.

Q The only marriage you recall that there was to be was the marriage between Mr. Fan and Tracy's sister Mildred, is that correct, sir?

A That's right.

Q Mr. Fan was referred to you by a man named Chung Chung, is that correct?

A Chung Chung?

Q I won't dispute the pronunciation, but Mr. Chung had been a client of yours in the past, is that correct?

A That is correct.

Q Did you trust Mr. Chung?

A Yes.

Q As a client and a friend?

A Yes.

Q After the time that Mr. Chung introduced Michael Fan -- I'm sorry, Wun Chiu Fan to you, did

bsr2 Chu-cross

Wun Chiu Fan come to your office with his cousin or his uncle,an older man?

A I don't recall that.

Q Do you recall ever meeting a man named Fan Chung?

A No, I do not.

Q Let me show you, Mr. Chu, Government's Exhibit 16B in evidence. That is the I-130 petition, is it not, for Mr. Fan and Mildred Miranda?

A That's right.

Q And was this signed in your office on the day of their wedding, sir?

A Yes, it was.

Q Was this a date -- I'm reading from the form, August 6, 1973?

A Yes, that's right.

Q This was signed in your presence?

A Yes, it was.

Q Was it blank when it was signed?

A Yes, it was.

Q Did you notarize this saying that it was signed on August 8, 1973?

A Yes, I did.

Q Was that true?

A No, it was not.

Q On direct examination, Mr. Chu, did you testify about a conversation that took place in your office on the day that this form was signed, do you recall testifying about a conversation?

A Yes, I believe I did.

Q And present at that conversation, am I correct, were yourself, Fan Wun Chiu, Mildred Miranda and Jean Fong?

A That is correct.

Q And did you testify that during that conversation Jean Fong suggested to Mr. Fan that it might be nice to take a honeymoon in Puerto Rico?

A No, she didn't say that it would be nice.

Q What did she say?

A She --

Q What do you recall she said?

A She was under the impression that he was going, not that it would be nice for him to go.

Q What did she say?

A She was -- I believe she was saying something about he would enjoy it down there.

Q And he said he wasn't going to go because he couldn't afford it? Is that right?

bsr4 Chu-cross

A That is correct.

Q And because he couldn't get off from work?

A That's right.

Q But Mildred said she was going to go, did she not?

A Right.

Q Did she say when she was going to go?

A I believe it was that same day.

Q So to your knowledge, she was not in even New York on August 8, 1973, was she?

A I don't know where she was on August 8.

Q Was she in your office that day?

A Not that I recall.

Q And at the time that this document was signed, that is, the Fan-Miranda I-130 petition, and at the time you delivered $1500 in cash to Mildred Miranda, did Mildred then say that she could afford to go to Puerto Rico?

A She didn't say she could afford to go to Puerto Rico. She said she was going to Puerto Rico.

Q And you just delivered $1500 in cash to her?

A That's right.

Q Did she say she was going to share it with her husband?

A I didn't get the question.

Q Did she say she would share it with her husband?

MR. FLEMING: Share what?

Q The cash.

A No, she didn't.

Q Did she offer to take her husband to Puerto Rico for a honeymoon with the cash?

A No, she didn't.

Q Mr. Chu, you testified on direct examination that Mildred told you -- or did you not testify on direct examination that Mildred told you that she would be living at 2185 Valentine Avenue and that her husband, Mr. Fan, was going to live with her?

A Yes. I'm not sure of the number, but it was Valentine Avenue.

Q And did you know at that time whether ornot Mildred and Tracy and Imgard Cruz and Frances Torres all lived up at 2185 Valentine Avenue, did you know that?

A No, I didn't.

Q And did you testify on direct examination that there came a time when there was to be an interview at immigration for Mildred and Mr. Fan?

A Yes.

Q And did you also testify on direct examination that you didn't meet a man named Raoul until after the interview for Mildred and Mr. Fan?

A That is correct.

Q Is that true, sir?

A Yes, it is.

Q You testified, I believe, on cross-examination, didn't you, Mr. Chu, that you filed an I-130 petition for Alice Aviles and her husband, is that right?

A Yes.

Q Did they come to your office the day of that wedding?

A I believe so.

Q Do you recall what the date of the wedding was?

A No, I do not.

MR. KINGHAM: May I have this marked as the next Government exhibit.

(Government's Exhibit 58 was marked for identification)

(Government's Exhibit 59 was marked for identification)

BY MR. KINGHAM:

Q Mr. Chu, showing you Government's Exhibit 59 for identification, I ask you if you recognize that, sir.

A Yes, I do.

Q What is that?

A This is the I-130 for Alice Mok -- Alice Aviles Mok.

Q Did you prepare that form?

A Yes.

Q Does it bear your signature?

A Yes.

Q Does it bear your notarization?

A Yes, it does.

Q Looking at this form, does it refresh your recollection as to the date on which that party -- those parties were married?

A Yes, it does.

Q What was that?

A July 1, 1973.

Q So that's the day they came to your office after their wedding, is that right?

A That's right.

Q What day, Mr. Chu, did you notarize their

bsr8 Chu-cross

I-130, if you recall?

A I didn't get a chance to see it.

Q I'm sorry. Look and see if that refreshes your recollection.

A July 3, 1973.

Q That wasn't the day they were before you, was it?

A No, it was not.

Q At the time you prepared the I-130 petition, or took the information from Alice Aviles, did she come to your office with the witnesses from her wedding, if you recall?

A I don't recall.

Q As a matter of fact, Mr. Chu --

MR. FLEMING: Is Alice Aviles charged as a marriage in this indictment? If it is, I haven't read about it.

THE COURT: I think we all know she is not. You are not really interested in my answer to the question, are you?

MR. FLEMING: I guess I'm not. I object. I don't understand the relevancy.

THE COURT: I think it is relevant on the matter of credibility.

MR. KINGHAM: Thank you, your Honor.

Q Is it not a fact, Mr. Chu, that Raoul Gonzalez came to your office with Alice Aviles the day she was married?

A No, he didn't.

Q You deny that he came to your office?

A Yes.

Q Or do you not recall?

A I deny that he came to my office.

Q Raoul Gonzalez was the man who later came with Mildred Miranda, is that correct?

A I don't -- he was the one who came with Mildred Miranda. I don't recall the dates.

Q It was after Alice's wedding, certainly?

A Yes, it was after.

Q Let me call your attention, if I may, Mr. Chu, to the time after Mildred's wedding, all right, which was August 6, 1973?

A Yes.

Q Following that wedding did Mildred -- strike that.

Following that wedding did Mr. Fan ever explain to you that Mildred would not let him live at the apartment?

bsr10 Chu-cross

A No, he didn't.

Q And following that wedding did Mildred ever come to your office and tell you that she wouldn't let Mr. Fan stay in the apartment?

A No, she didn't.

Q Do you recall, Mr. Chu, that on or about January 18, 1974 there was an immigration service interview of Mildred and Mr. Fan?

A It was in January. I don't remember the date.

Q Was it before the Torres-Hu interview, do you recall?

A I believe it was.

Q Did you not know, Mr. Chu, that at the time of that interview Mildred and Mr. Fan were not living together at 2185 Valentine Avenue?

A Before whose interview?

Q Before their own interview.

A No, I didn't know.

Q Was it your testimony on direct examination that you didn't even believe or think that until after their interview at Immigration?

A I didn't believe it until -- I realized that they weren't living together after the interview.

Q After both of them were interviewed or after the first party was interviewed?

A After both.

Q Only after the discrepancies, is that correct?

A That is correct.

Q Following their interview at immigration, sometime in January, 1974, did you subsequently handle a divorce for Mr. Fan and Mildred Miranda?

A Yes, I did.

Q On the day ofthe interview did you discuss divorce with them?

A No.

Q When was the first time you discussed divorce with them?

A It was sometime after the interview. I don't recall exactly when.

Q Is that when Raoul came with Mildred?

A No, not on the day after, no.

Q Raoul came with Mildred the day after, is that correct?

A That is correct.

Q Isn't it true, Mr. Chu, that you had spoken with Mildred about getting divorced even before she married Mr. Fan?

bsrl2 Chu-cross

A No, it is not.

Q You deny that under oath, sir?

A Yes, I do.

Q At the time Raoul came to your office with Mildred, did you discuss divorce at all on that occasion, if you recall?

A I didn't.

Q Did you ever discuss divorce when Raoul was with Mildred in your office at all?

A I believe they came into the office one day.

Q To discuss getting a divorce between Mildred and Mr. Fan, is that right?

A That is correct.

Q As a matter of fact, sir, that you arranged for the divorce because Raoul said that if you didn't do so he would go to the immigration service and expose you and the marriage, isn't that a fact, sir?

A No, it is not a fact.

Q You deny that?

A Yes, I do.

Q Raoul never told you that?

A No, he didn't.

MR. KINGHAM: Your Honor, this might be an appropriate time to break.

THE COURT: All right. We will take our noon break now and return at 2 o'clock.

(Luncheon recess)

AFTERNOON SESSION
2:20 p.m.

(In open court; jury present)

G E N E L O Y C H U resumed.

CROSS-EXAMINATION

BY MR. KINGHAM:

Q Mr. Chu, did you testify on your direct examination that you met Mr. Jout, John Jout, before his marriage to Tracy?

A That's correct.

Q Do you recall the date of his marriage to Tracy?

A No, I do not.

Q Let me show you Government's Exhibit 24B in evidence. Does that refresh your recollection as to the date of the marriage?

A Yes, it does.

Q What was that, sir?

A August 17, 1973.

Q Do you recall how long before he married Tracy you met Mr. Jout?

A I would guess approximately two weeks.

Q Is that your best recollection?

A Yes.

Q Did you also testify that you had met Tracy before she married Mr. Jout?

A That is correct.

Q The first time you met Mr. Jout, who was present and where did you meet him?

A I believe his sister, Jimmy Yu, Mr. Jout and myself, in my office.

Q I take it there was a conversation among the people that you just mentioned?

A That's correct.

Q Was that the first time that Jimmy Yi had brought anyone to your office?

A I don't recall the sequence, whether Perry Chang was before or after.

Q Indeed, did he not also bring a man named William Ho to your office at one time?

A Yes, he did.

Q And Ana Rosa Rodriguez?

A Yes, he did.

Q Was that before you met Mr. Jout?

A I think so.

Q At your first meeting with Mr. Jout, was the topic of marriage discussed?

A Yes, it was.

Q Was the topic of permanent residence and green cards discussed?

A Yes, it was.

Q Did you tell him that the only practical way for him to stay in the United States was to marry a United States citizen?

A Not in those words.

Q What did you tell him?

A I believe it was discussed whether he could get an extension of his visitor's visa, and I told him that possibly I could get him an extension of a month, possibly three, and he said he wanted to stay longer than that. I said I don't think we could extend this any longer, and I believe the subjext came up, what if he married a citizen.

Q Who said that?

A I believe his sister did.

Q Did you discuss the possibility of his getting residence here as an investor or a technician or student?

A I believe we did, but I told him it wasn't possible.

Q Those would not be practical ways for him to remain in this country? Was that what you told him? I

just want to be clear.

A Yes.

Q Did you tell him that in order to marry a citizen, it would cost him $3500 for the girl?

A At that time, I don't think any amount was discussed.

Q Did you at any time tell him it would cost $3500 for the girl?

A I believe at a subsequent date he was told.

Q Who told him?

A I don't know whether it was me or Carmen Miranda when they came up.

Q Did that discussion take place in your office, whenever it was?

A Yes.

Q At the first meeting did you tell him that your fee in connection with his application for permanent residence would be $1500?

A No, I didn't.

Q Did you tell him that you would reduce your fee to $1000 because he was Jimmy Yu's friend?

A No, I didn't.

Q He was Jimmy Yu's friend, was he not?

A Yes, he was.

lhr5 Chu-cross

Q At that first meeting did Mr. Jout's sister ask you if Jout could get divorced after he got his green card?

A No, she did not.

(Continued on next page)

Q Was there any conversation about divorce at that meeting?

A None whatsoever.

Q Did you not say to Mr. Jout and to his sister, Mrs. Fu, that you would have the girl sign divorce papers at the time of the wedding?

A I did not.

Q You never said that to those people; is that correct?

A Never.

Q You testified, I believe, on direct and cross-examination that in your opinion a marriage would be valid if validly entered into under State law and if the parties intended to live together as husband and wife; is that correct?

A That's part of it, yes.

Q There was another part, that it would be valid if the wife would be willing to make a home for the husband and the husband to take on the obligation of supporting the wife; is that correct?

A That's correct.

Q That was the other part of your definition or opinion with respect to the validity of the marriage; is that right?

A That's right.

Q In your opinion, would a premarital, that is a before marriage, agreement by the parties to get divorced at the time of the green card have any effect on the validity of the marriage?

THE COURT: You mean his opinion as of 1973?

MR. KINGHAM: Yes, your Honor. I don't mean as of now. I mean as of 1973.

A Would it have an effect on the validity of it?

Q In so far as Immigration purposes.

A Yes, I think it would.

Q What was that effect?

A I think it would not be a valid marriage.

Q At this first meeting with Mr. Jout, did you tell him and his sister, in words or in substance, that the woman he was going to marry did not like men but preferred people of her own sex?

A No, I did not.

Q Did you know at that time whether Tracy was a lesbian?

A I did not.

Q Did you at any time tell Mr. Jout that Tracy was gay?

A I did not.

Q Did Mr. Jout and his sister return to your office the day after your first meeting with them?

A It was a day or two later.

Q At that time did they bring you some money?

A Yes, they did.

Q How much?

A I believe it was $1,875.

Q $1,875?

A I believe so.

Q $375 for you?

A That's correct.

Q $1,500 for the girl?

A That's right.

Q When did you tell Mr. Jout that it was $1,500 for the girl, if you recall?

A I believe when he met Tracy, it was discussed, or it may have been discussed before. I don't recall.

Q When they returned to your office with the money, did you introduce them to Tracy at that time or was that some other time?

A I don't recall exactly.

Q What did you do with the $1,500?

A I placed it in an envelope and I put it in the file.

Q Then there came a time when you introduced Mr. Jout to Tracy or Carmen Miranda; is that right?

A That's correct.

Q You had met her before, had you not? Before the introduction you made?

A I may have met her the same day. I am not sure.

Q When you met her, was Jean Fong present?

A Yes, she was.

Q When you met her, did you tell Tracy that she would receive $3500 to marry Mr. Jout?

A I think she already had expected that.

Q Did you tell her?

A I didn't tell her, no.

Q Was there any discussion about money with Tracy?

A Yes, there was.

Q What did you tell her, if anything?

A She asked me, and I confirmed it.

Q What did you say?

A I said yes.

Q "Yes" to what?

A To her inquiry to me.

Q What was her inquiry?

A She said, "Is it correct that I would get $1,500 when I marry him and then $2000 in monthly payments?"

I said, "If he agrees to it."

Q Was Jean Fong present at that conversation?

A I believe she was.

Q Was Jean Fong present when you intfoduced Mr. Jout to Tracy at a later time?

A I think she was.

Q At the time of that introduction, did you call the doctor in Chinatown to arrange a blood test?

A I don't remember.

Q Do you know Dr. Kwan, K-w-a-n?

A I know it as Q-u-a-n.

Q Q-u-a-n?

A Yes.

Q That would be pronounced Q-u-a-n?

A Dr. Quan, yes, he is a dentist.

Q He is a dentist?

A Yes.

Q In Chinatown?

A Yes.

Q Mr. Chu, let me show you again Government's Exhibit 24-B, that is the I-130 for Mr. Jout and Carmen Miranda, or Tracy.

Would you turn it over, please. That has your signature on it, also, does it not?

A Yes.

Q Does that also say that that document was signed before you on a certain date?

A That's correct.

Q What is that date?

A August 20, 1973.

Q The date of the marriage was August 17, 1973, is that right?

A That's correct.

Q Your statement that this was signed on August 20, 1973 is not true, is it?

A It is not.

Q Now, at the time that Tracy married Mr. Jout, did you know that she was Mildred's sister?

A I don't think I knew at that time, no.

Q You know they both had the same last name, Miranda?

A Yes, I did.

Q Did Tracy give you an address when you first

met her?

A I don't remember, she may have.

Q Did Tracy ever tell you that she lives at 2185 Valentine Avenue in the Bronx?

A I don't remember the address she gave.

Q That was the address that Mildred had given you, wasn't it?

A I know Valentine Avenue. I'm not sure of the number.

Q Do you recall testifying on direct examination that you put on Mildred Miranda's I-130 the address that she gave you?

A That's correct.

Q I show you that which is Government's Exhibit 16-B and ask you if it is not 2185 Valentine Avenue?

A Yes, it is.

Q That document was signed prior to the time that Mr. Jout and Tracy got married, is that not correct?

A I don't know what date they got married.

Q The date of that wedding was August 6, 1973, is it not?

A That's correct.

Q I believe we just established the date of the Carmen Miranda wedding as August 17, 1973?

A Yes.

Q So that document was signed first?

A That's right.

Q At that time you knew that Mildred at least claimed that she lived at 2185 Valentine Avenue?

A That's right.

Q Government's Exhibit 24-B, which is the Carmen Miranda-Jout I-130 you did not put 2185 Valentine Avenue as the address, did you?

A No, I did not.

Q In fact, you put Jimmie Hu's address there, didn't you?

A That's right.

Q After the wedding of Mr. Jout and Tracy, or Carmen Miranda, did the couple come back to your office?

A Yes, they did.

Q Did you there deliver to Tracy $1500 in cash?

A Yes, I did.

Q Did you see her thereafter give $200 to Jean Fong?

A No, I did not.

Q After that day, the day of the wedding, which was August 17, 1973, did you learn that Mr. Jout was living in North Carolina?

A Yes, I did.

Q And after you learned that didn't you later tell Mr. Jout and Tracy that when he went to Immigration he should say that he came up every couple of weeks from North Carolina?

A I told him --

Q Please answer yes or no?

A May I have the question read back?

(Question read.)

THE WITNESS: Yes, I did.

Q And following the marriage, that is, after August 17 of 1973, did you have occasion to discuss that couple, that is, Mr. Jout and Tracy, with Jimmie Hu; did you ever have a discussion about them?

A I may have discussed it with him.

Q You just don't recall?

A Not specifically, no.

Q Did you at any time instruct Mr. Jout that his monthly payments to Tracy should be made through Jimmie Hu?

A I did not.

Q Did you at any time tell him that when he made payments to Tracy he should pay her cash or have Jimmie Hu pay her cash, did you ever say that to Mr. Jout?

A No, I did not.

Q Did you ever know or did you ever learn that the payments that were made to Tracy were being made through Jimmie Hu?

A Just recently.

Q During this trial?

A I think it was just before the trial.

Q In connection with this trial?

A Yes.

Q I believe you testified that your fee from Mr. Jout was to be, as with the others, $375 in the beginning, and $375 later; is that correct?

A No. He was going to pay it all at once, but I believe he paid part of it when he gave me the $1500, and he said Jimmie would give me the other $375 shortly.

Q At the time of the wedding did you receive any mony from Mr. Jout or from Jimmie, at the day of the wedding?

A I either received it that day or before. I am not certain.

Q After that you received the balance from Jimmie Hu; is that correct?

A That's right.

Q Let me show you what is Government's Exhibit 25 in evidence, a notice dated February 13, 1974.

Did you receive a copy of that notice?

A Yes, I did.

Q That sets up an I-130 interview for February 25, 1974, does it not?

A That's right.

Q After you got that notice did you call this couple into your office?

A I believe I did.

Q Where was Mr. Jout living at that time?

A I'm not certain whether he was in North Carolina at that time.

Q Where was Tracy living at that time?

A I believe she was in Brooklyn.

Q This notice, Mr. Chu, is addressed to Carmen Jout at 32-49 86th Street in Jackson Heights; is that correct?

A That's correct.

Q She was not living at that address, to your knowledge, was she, at that time?

A No.

Q When they came to your office after you received this notice -- first of all, would it be fair to say that they came to your office some time in February, 1974?

A I believe so.

Q In response to this February 13 notice?

A I think so.

Q When they came, did you tell them that an Immigration interview was pending?

A Yes.

Q There was an interview scheduled for a certain date, right?

A Right.

Q And did you tell them that Jout, that is, Mr. Jout should be sure to move in in Brooklyn because you knew that he was living in North Carolina?

A No, I didn't.

Q At about that time, February 1974, if you wanted to contact Mr. Jout, your client, how would you go about it?

A At that time I think I would either contact him through his wife Carmen or through Jimmie Hu.

Q Between August of 1973, the date of the wedding, and February of 1974, did you see Tracy at all, Carmen Miranda?

A I think I may have.

Q Did she come with Frances to your office during that period?

A I think so.

Q And did you know at that time that they lived together in Brooklyn?

A No, I did not.

Q You did not know that Frances was living in Brooklyn with Tracy; is that your testimony?

A No, I did not.

Q I am sorry, sir?

A That is my testimony.

Q On the occasions that Frances and Tracy came together to your office, didn't Frances complain that she was not getting money from her husband Tommy?

A I don't recall this.

Q During that period between August, the date of the wedding, and February of '74, did Tracy bring any other girls to see you? By other girls I mean other than Frances.

A I don't know whether she brought -- I don't think so. I think she brought Imgard later on.

Q Other than Imgard, do you recall anybody else being brought?

A I don't remember anyone else.

Q Do you recall whether she brought two girls named Cela and Marie to your office?

A No, I did not.

Q Did you ever meet any girls by that name, if you know?

A The name Cela sounds familiar, but I don't recall.

Q During this period, Mr. Chu, from August of '73 to February of '74 did you not tell Tracy that you wanted her to bring girls to you who could marry Chinese men?

A No, I did not.

Q Did you ever Tell her that?

A No, I did not.

Q Let me show you Government's 26 in evidence. That is a notice that bears a March 1974 date, does it not?

A Yes, it does.

Q What is that date?

A The date of appointment or the date of the letter?

Q The date of the letter?

A March 5.

Q Did you receive a copy of that notice?

A I believe I did.

Q That sets up an appointment for March 15 for the same couple, does it not?

A That's correct.

Q And had you postponed the first appointment?

A Yes, I did.

Q Do you recall the reason why?

A I was in Civil Court, New York County, landlord and tenant part.

Q Was that in connection with a notice to hold over some landlord-tenant matter on Hester Street?

A Yes.

(Continued on next page.)

Q Prior to the March 15 date, and after receiving that notice, did you speak with this couple in your office again?

A I'm sorry, I didn't get that.

Q Prior to the March 15 interview that was set up, and the date of that notice, which was earlier, did you see the couple in your office to prepare for the interview?

A I did prepare for the interview. I'm not certain whether it was before this or before the person, I'm not sure.

Q But in any event, it was around that time, February or March when you prepared for the interview, is that correct?

A Either before the first notice or before the second notice.

Q Before the first interview or the second interview?

A Before the first scheduled one.

Q When you prepared them for immigration you told them what they could expect in the way of questions, is that correct?

A That is correct.

Q Did you ask Jout and Carmen or Tracy certain

questions about the apartment?

A Yes, I did.

Q Did they give you answers?

A I asked questions to Jout. I just wanted to get his understanding of the English language, and his ability to respond.

Q Did you listen to the answers he gave?

A Yes, I did.

Q Did you confirm with Tracy that those answers were correct or incorrect as the case might have been?

A No, I didn't.

Q Did you ask her any questions about the apartment?

A I don't think so.

Q Did you ever tell them at any time that their answers at immigration had to be the same?

A I told them immigration expected the answers to be the same.

Q Did you tell them that if there were discrepancies that they might be in trouble?

A I told them that if there were discrepancies they would have to explain them.

Q Did you tell them at the preparation for the interview in your office, did you tell them to only say

that they had paid you $600 fee?

A No, I didn't.

Q Did you not tell them, Mr. Chu, to say that they had met not at Jimmy Yu's -- rather, not in your office, but rather at Jimmy Yu's house or his restaurant?

A I didn't.

Q Did you tell them that they could expect to be asked where they had met?

A I may have.

Q Prior to your preparation with them, that is, in March or February of 1974, you had already been through at least one interview where that question was asked, had you not? Namely, the Torres --

A Yes, I believe so.

Q That was in January?

A Yes.

Q So you knew at that time that immigration, or at least one officer had asked where couples had met?

A Yes.

Q When you mentioned that to Tracy and to Mr. Jout, what did they tell you their answer would be?

A They never answered the question. I just

told them what the question would be.

Q You didn't ask them for an answer?

A No, I didn't.

Q You knew at the time of your preparation for this interview with this couple that they had met no more than two weeks prior to their marriage, did you not?

A That is correct.

Q And indeed, they had met in your office?

A That's right.

Q Did you not tell them that if immigration were to inquire about the length of time between the meeting and their marriage that they should say it was love at first sight?

A No, I didn't.

Q On March 15, 1974, the scheduled date of that interview, you went to immigration with these people, did you not?

A I believe so.

Q And was that theday that Tracy could not be interviewed becasue she didn't have a social security card?

A They both couldn't be interviewed.

Q They both couldn't be interviewed. Why was

bsr5 Chu-cross

that?

A Because Tracy didn't bring identification as requested.

Q In what name did she not bring identification?

A In what name?

Q Yes, her maiden name or her married name?

A I don't recall. All I know is that she didn't have the required -- what they considered sufficient identification.

Q So there was no interview of those people at that time?

A No, there was not.

Q After that did you instruct Tracy to get her social security card?

A I think I had a discussion with the immigration interviewer and asked what would be sufficient.

Q What were you told?

A I asked -- I remember discussing it with her, it was a woman, and I asked what would be sufficient, and she said "You are a lawyer, you should know" and she wouldn't answer me.

Q Did you tell Tracy what kind of identification to get?

A Yes, I did.

Q What did you tell her to do?

A I asked her if she had a social security card. I think she said she lost it -- I don't recall whether she said she lost it or she never had one, and I said, "If you lost it and you have a record of your old number, get another card, and if not, get a new card."

Then I also told her to get rent receipts from the landlord, which the immigration officer -- I asked if that would be sufficient.

Q And you told Tracy to bring those the next time, is that correct?

A I asked her if she had any, and she said she thought she did.

Q That date was rescheduled?

A Yes.

Q Do you recall the date it was rescheduled for?

A I believe this was April 2nd.

Q Prior -- let me show you Government's Exhibit 27 for identification. Do you recognize that, sir?

A Yes.

Q Did you receive either that or a copy of that before the April 2nd interview?

A Yes, I did.

Q Does that notice dated March 21, 1974 set up the April 2nd interview?

A Yes.

Q After receiving the March 21 notice and before the interview did you again call this couple to your office?

A I believe we made an appointment for the same morning.

Q April 2nd?

A Right.

Q And at thattime did you again go over what possible questions could be asked?

A I don't think I did.

Q Was there any conversation at your office that morning?

A I think I may have mentioned to them that I hope this gets through on time because I have another appointment.

Q Did you not also tell them at that time to say that they had not married for money but had gotten married because they were in love?

A No, I didn't.

Q Then you went to the immigration office, is that correct?

A That is correct.

Q And they were interviewed by Miss Miller, who testified here?

A They were interviewed.

Q You don't recall Miss Miller specifically?

A No, I do not.

Q Do you recall at that interview that Mr. Jout and Miss Miranda, the Jouts, told the interviewer that he came home from North Carolina every two weeks; do you recall their saying that at the interview?

A Yes, I believe he did.

Q Was that true?

A I believe it was. He told me it was.

Q In fact, hadn't you told him to say that?

A To the contrary. He told me.

Q After that -- let me ask you one other thing -- and also at that first interview, did they not both tell the interviewer that they had met at Jimmy Yu's restaurant, the Lantern Light?

A Yes, they did.

Q Who was interviewed first, Mr. Jout or his spouse?

A I don't remember.

Q Did the first person who was interviewed

tell the story about meeting at the Lantern Light?

A Yes.

Q And after that story was told you knew that it was not true, didn't you?

A Yes.

Q Because they had met in your office?

A That's right.

Q After that interview, the interview of the first person, did you suggest to this couple that they withdraw the petition?

A No, I didn't.

Q And after the first -- the interview of the first person, did you tell the second person not to testify or not to tell that story?

A No, I didn't.

Q Were you present during the interview of the second person?

A Yes, I was.

Q Were you present when the second person told the same story the first one had told?

A Yes, I was.

Q And you knew it was a lie?

A Yes, I did.

Q After that first interview, they were then sent to investigations, is that correct, for further interviews?

A That's correct.

Q You had an opportunity to talk to them before they went upstairs?

A I don't think they permitted me to speak to them until we got upstairs.

Q But then you were allowed to talk to them?

A Yes.

Q To the best of your recollection, what was the conversation you had with them at that time?

A I don't recall the discrepancy -- I think I spoke to them and told them that it wasn't necessary to lie about anything, but at that point I didn't know what would happen if they would change their story and

tell the truth as to their meeting, and I think I did go into discussions about the discrepancies about the dog, when they got the dog, and also about the lake or trees behind the house.

Q Did you tell them that if they were questioned again that they should stick to the same story about their meeting?

A No, I didn't.

Q Did you suggest to them thatthey should not answer any questions because they had already lied?

A No, I did not.

Q And then certain questions were asked of them individually, were there not?

A I don't think there were any questions that were asked of them upstairs in my presence.

Q You testified on direct examination that you left at about 11:30 to make your noon appointment in Long Island City, is that correct?

A That's correct. I mentioned Astoria, but it is Long Island City.

Q I don't know what the difference is.

In any event, you had to leave around 11:30 to go someplace else?

A That is correct.

Q Prior to leaving you had been with the Jouts?

A Yes.

Q Tracy and Mr. Jout, at immigration, on the 13th floor, is that correct?

A That is correct.

Q Upstairs?

A Yes.

Q Had they been confronted by any investigators? Had the investigators spoken to them yet?

A I think most of the discussion was between the investigator and myself.

Q Had that couple, to your recollection, been advised of their rights yet?

A I believe they were.

Q Isn't it a fact, Mr. Chu, that you were present when Tracy was advised of her rights and when she answered questions before the immigration officer that day?

A Are you talking on the 13th floor now?

Q On the 13th floor, to the best of your recollection?

A To the best of my recollection, they didn't ask them questions in my presence.

MR. KINGHAM: May I have this marked, please?

(Government's Exhibit 60 was marked for identification)

Q Mr. Chu, let me show you Government's Exhibit 60 for identification. I ask you to look at this entire document, if you would, and read it to yourself for a second and then I will ask you a question.

(Pause)

Q Have you read it, sir?

A Yes, I have.

Q All three pages?

A Yes.

Q Does that refresh your recollection as to whether or not you were present when that statement was taken from Miss Miranda or Mrs. Jout that morning?

A I don't believe I was present.

Q You don't remember being present?

A I don't recall, no.

Q Were you present when she was advised of her rights?

A I believe if she was advised, I was present. I don't remember. Most of the conversation was between the immigration investigator and myself.

Q This doesn't refresh your recollection as to whether you were there or not?

A I was there.

Q Were you there at 10:45?

A I believe so.

Q Wasn't she advised of her rights at 10:45?

A I don't recall the time.

Q Wasn't she thereafter asked some questions and she gave a statement in your presence before you left at 11:30?

A I don't believe so.

Q In your presence did she ever say to immigration that she had married her husband because she fell in love with him and that she wasn't paid any money to marry him, in your presence, did she say that on April 2?

A Are you talking either on the 11th or the 13th floor?

Q Either place.

A I don't remember on -- I am pretty certain she wasn't asked that on the 13th floor. I don't remember on the 11th floor.

Q You don't recall whether she was asked that on the 13th floor or whether she said that?

A Not in my presence, I don't recall. I don't think so.

1hr6 Chu-cross

Q Looking at that doesn't refresh your recollection?

A It doesn't.

Q This couple was interviewed again in April of 1975, were they not?

A That's correct.

Q I am sorry, what exhibit number is that, Mr. Chu?

A 28.

Q 28 in evidence, is that a notice you received indicating that they were going to have an interview in April?

A That's right.

Q Before going to that interview, did you call the couple to your office again?

A I don't think they came into my office. I think we just made an appointment for them to come that same day.

Q Did they come to your office that same day or did you meet them at immigration?

A They came to my office.

Q After that did you go with them to the immigration service?

A Yes, I did.

Q Were they interviewed?

A Yes, they were.

Q Separately?

A I don't recall whether it was separately or together.

Q Were they interviewed by investigations or by the I-130 interviewer?

A By investigations.

Q On the 13th floor, is that correct?

A I believe so.

Q Upstairs, in any event?

A Right.

Q Indeed, doesn't that notice tell you that it is not just the normal I-130 interview but it is an investigator that you are supposed to appear before?

A It just said investigator. I never had experienced anything like that, so I wasn't sure.

Q What floor does it say to report to?

A 13th floor.

Q That's where investigations was, was it not?

A That's right.

Q Were you present when Carmen Miranda Jout was asked questions and gave answers at that time, April 7, 1975?

A Yes, I was.

Q In your presence did she tell the immigration service that she and Mr. Jout had gotten married because they loved each other and not to bypass the immigration laws? Did she say that in your presence?

A She may have said that. I don't recall the exact questions.

MR. KINGHAM: May I have this marked, please?

(Government's Exhibit 61 was marked for identification)

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Q Showing you Government's Exhibit 61 for identification, would you read that to yourself and then I will ask you a question about it?

(Pause)

Q Does that refresh your recollection as to whether, Mr. Chu, in your presence on April 7, 1975, Carmen Miranda said to immigration that she and Jout had gotten married because they loved each other and not to bypass the immigration laws?

A That's correct.

Q That was not true, was it?

A I don't know.

Q You didn't know at the time whether that was true or not?

A I didn't know.

Q Isn't it a fact that you told her to say that?

A I didn't.

Q Were you surprised when she said it?

A No, I wasn't.

Q After that April 7 interview, Mr. Chu, did you have a conversation with your clients?

A Yes, I did.

Q The same day?

A Yes, I did.

Q Did you not tell Mr. Jout that after this interview he definitely had to move into Brooklyn because immigration didn't believe in the marriage?

A No, I didn't.

Q You deny that, sir?

A Yes, I do.

Q After this interview, did you think that immigration believed in the marriage or did not believe in the marriage?

A I thought that immigration didn't believe because the immigration investigator told me so.

Q Did you tell that to your clients?

A Yes, I did.

1hr10 Chu-cross

Q Did there come a time when you learned that Tracy had been visited by immigration in June of 1975, around June 6, early June, at the apartment in Brooklyn? Did you ever learn that?

A I learned that she was visited. I don't recall when.

Q After that visit, didn't she contact you?

A I believe it was a considerable time after that she did.

Q After the visit?

A Yes.

Q What do you mean by a considerable time?

A I think it was more than two, three weeks after.

Q The telephone call you received from Alice Aviles in your office, that was around June 23, 1975, was it not?

A I believe it was late June of '75.

Q You recall Mr. Jout's testimony about that date, in any event, do you not?

A I don't remember the date no.

Q Do you remember he testified about the date? In this courtroom.

A He may have said so.

lhr11 Chu-cross

Q You don't recall? In any event, it was in late June, 1975?

A I believe so.

(Continued on next page)

Q How long before that time was Tracy's visit from Immigration or did you learn about it?

A It may have been the same time. I don't remember.

Q Do you know when Tracy's visit was, when she was visited?

A She told me it had happened a while ago. I don't think she told me the exact date.

Q When she told you that, did she not tell you that she had told Immigration everything about the marriage?

A I don't think so.

Q Did you not ask her, "Did you mention my name?"

A Your name?

Q Did you not say to her, "Did you mention my name," to Immigration? Did you say those words to her or words to that effect?

A No.

Q Did she not tell you that she did not mention you, but had put the blame on Jimmie Hu? Did she tell you that?

A No.

Q She never told you that; is that correct?

A No, she never told me that.

Q You testified on direct examination, have you

not, Mr. Chu, that you were in your office discussing a divorce with Mr. Jout, his sister, Tracy and Frances when a telephone call came from Alice Aviles?

A That's right.

Q That was a meeting about the prospective divorce between Tracy and Mr. Jout; is that right?

A That's right.

Q Did you ever help them obtain that divorce?

A Did I help them?

Q Obtain a divorce.

A No, I did not.

Q Did you not testify on direct examination that prior to that meeting in June, 1975 Mr. Jout came to you and said that there was some sort of unsual relationship between Frances and Tracy?

A Yes.

Q Did you believe at that time that Frances was making a home for Tommy Hu in the Bronx?

A No, I did not.

Q Let me call your attention to February, 1974.

Do you recall filing an I-130 petition for Imgard Cruz and Brian Yeung around that time?

A I don't remember the date, no.

Q I show you Government's Exhibit 41-B and 41-A

also. That may help you.

Do those refresh your recollection as to when you filed the petition?

A Yes, it does.

Q When was that, sir?

A I apparently mailed it on February 4, 1974.

Q Was that petition also signed on the day of the wedding in question?

A Yes.

Q In your office?

A Right.

Q Who was present?

A Imgard, Brian and -- I don't recall who else was present.

Q Was Tracy there?

A She may have been.

Q Didn't Tracy receive approximately $200 or some cash in your office at that time?

A I didn't know of it.

Q You didn't see that?

A No, I did not.

Q Was Margie Hernandez there?

A She may have been. I don't know.

Q Was the baby there?

A I think so. I am not sure.

Q Mr. Chu, on Government's Exhibit 41-B, that is the I-130 form, this reflects that the wedding date was January 29, 1974; is that correct?

A That's right.

Q And it also reflects, does it not, that this was subscribed and sworn to before you on February 1, 1974; is that correct?

A That's right.

Q And it bears your signature and your notary seal?

A Yes, it does.

Q Was that true?

A No, it was not.

Q On the date of the Cruz-Yeung wedding, did you deliver $1500 in cash to Imgard Cruz?

A Yes, I did.

Q Was that cash that you had received earlier from Brian Yeung?

A Yes, it was.

Q When did you first meet meet Imgard?

A I don't recall. I heard some testimony that she had been in my office earlier, but I don't remember.

Q You just don't recall; is that correct?

A I know I met her before her marriage -- shortly before her marriage to Brian, but I don't know whether that was the second --

Q Do you recall whether she was pregnant when you met her or not?

A I think she may have been. I don't recall.

Q She might have been?

A She might have been.

Q In fact, hadn't she been in your office with Tracy several times during 1973 after Tracy's wedding?

A She may have been there once. I don't remember.

Q before the wedding you also met Brian Yeung, didn't you?

A Yes.

Q Where?

A At my office.

Q Didn't he come to your office alone the first time you met him?

A Yes, he did.

Q Did he tell you the first time he came to your office that he wanted to be a permanent resident here?

A Yes, he did.

Q Did he tell you he jumped ship?

A Yes, he did.

Q Did he tell you that he was awaiting voluntary departure from Immigration?

A He may have. I don't know.

Q Did you ask him his Immigration status?

A I think he told me he jumped ship, but whether he got into details of voluntary departure, I don't know.

Q Did he tell you he wanted you to find him a girl so he could get married and stay in this country?

A To that effect, yes.

Q Did you not respond?

A Yes, I did respond.

Q What did you say?

A I told him I didn't know at the time.

Q Did you not tell him that you wanted him to bring his friend, Mr. Lau or Mr. Chong Wing to your office to vouch for him? Did you tell him that?

A I believe -- I don't think the name Chong Wing -- I believe the name Mr. Lau came up.

Q Mr. Lau?

A Yes.

Q Did that name come up?

A Yes.

Q Did he mention he was a friend of Mr. Lau's?

A I think he said he didn't know Mr. Lau but he knew someone who knew Mr. Lau.

Q Isn't it a fact that you wouldn't speak to him about marriage until he was referred to you by somebody you knew and trusted? Yes or no, sir.

A No.

Q After that first meeting, did you not tell Brian Yeung that you hadn't spoken with him the first time about marriage because you were afraid he was an undercover agent investigating you?

A No, I did not.

Q You deny that conversation under oath, sir?

A Yes, I do.

Q You had no concern at all that he was an investigator?

A No, I did not.

Q I believe you testified earlier, Mr. Chu, that you did charge Brian a fee for your services; is that correct?

A Yes, I did.

Q Was that again $375?

A No, I believe it was $500.

Q $500 for the same services you performed in

connection with the other I-130 petitions; is that correct?

MR. FLEMING: Objection.

THE COURT: He may answer.

A It was a retainer of $500.

Q $375 was a retainer in the other cases also, was it not?

A $375 was th retainer for the other matters.

Q During your first meeting with Imgard, did you tell her that she would get $3500 for marrying a Chinese man?

A I believe she asked me whether she was going to get it.

Q You confirmed that she would; is that correct?

A Yes, I did.

Q During your first meeting with Brian, did he ask you how much it was going to cost him to get married and stay in this country?

A Yes.

Q What did you tell him?

A I told him I thought it would cost him $3500.

Q During your first meeting with Imgard, did she not express to you concern that she didn't want to

have sex with the Chinese man she married?

A No, she did not.

Q Did you not tell her that she didn't have to have sex with him?

A No, I did not.

Q Brian and Imgard met for the first time, to your knowledge, in your office; is that correct?

A That's right.

Q You introduced them?

A I believe so.

Q Who else was present?

A I believe Tracy was present. Carmen Miranda.

Q Was the baby there?

A I don't remember.

Q Did you not ask Brian if Imgard was satisfactory to him at the time of their meeting?

A In words to that effect.

Q Didn't you ask Imgard if Brian was satifactory to her?

A In words to that effect.

Q Didn't she say it didn't make any difference, that he would be fine?

A She didn't say that, no.

Q At the time of the Cruz- Yeung wedding, Brian and Imgard, and after they came back to your office, the I-130 was signed and you delivered the money; is that correct, sir?

A That's correct.

(Continued on next page.)

Q At that time did you not tell them that they would have to live together?

A I think that was understood before.

Q You told them that before, is that correct?

A Yes.

Q And they told you they are going to live at Imgard's apartment at 2185 Valentine Avenue, did they not?

A Yes.

Q And you put the address down on the I-130?

A Yes.

Q In facg, Brian followed your instructions, didn't he, he went and he moved in?

A I believe he did.

Q In April of 1974, two months after the wedding, Brian was arrested up in Connecticut, was he not?

A I don't remember the date. I remember he was arrested.

Q Do you recall it was some time around April?

A I don't recall when.

Q Do you recall it was in 1974?

A Yes.

Q And he called you from Connecticut, didn't he?

A I don't think -- I think Imgard called me first.

Q Did you contact the Immigration officials in Connecticut where he had been arrested?

A I believe I called.

Q Did you try to arrange to have him released on bond?

A Yes, I did.

Q Did you tell him that he had a pending I-130 petition?

A Yes, I did.

Q To your knowledge, had he not been arrested in something called the Boy House at the Cobs Mill Inn?

A The Boy House?

Q The Boy House.

THE COURT: B-o-y-e?

MR. KINGHAM: B-o-y, your Honor.

A I don't recall that.

Q You knew he had been arrested at the Cobs Mill Inn?

A Yes.

Q For an immigration violation?

A Yes.

THE COURT: At any convenient time we will take our afternoon break.

MR. KINGHAM: Just about five more minutes on

this subject, your Honor.

THE COURT: All right.

Q Following Brian's arrest certain interviews were set up in Immigration in New York, were they not, for the I-130 petition?

A Yes, they were.

Q Some time in 1974?

A That's right.

Q I show you Government's Exhibits 43 and 44 in evidence.

Is 43 a notice setting up an interview in October of '74?

A That's right.

Q And 44 is setting up an interview in December of '74, is that right?

A That's right.

Q The October interview you asked to be adjourned because you were going to be on trial in Supreme Court, is that right?

A That's right.

Q And the December interview you asked to be adjourned, or you indicated had to have been adjourned because you nad been sick?

A That's right.

Q At any time did you request an extension of time for the Cruz-Yeung interviews because the couple was not ready to be interviewed yet?

A No.

Q Did you ever request that in any I-130 spouse case?

A Never.

Q And after you received these notices did you call the Yeungs, that is, Brian and Imgard, into your office to be prepared for the interview?

A I don't recall when they came in.

Q You do recall they came in some time before the interview?

A Yes.

Q How many times had they come to your office to prepare for the interview?

A I believe once, possibly twice.

Q During that once or twice, did you ask questions of Brian and get answers concerning the apartment?

A Yes, I did.

Q Didn't you tell him and Imgard they were not ready to go to Immigration because they didn't know enough yet?

A No, I did not.

Q Didn't Brian express a reluctance to lie to you?

A No, he did not.

Q Did Brian express a reluctance to lie?

A No.

Q He never said that?

A No.

Q Did you ever tell him, "Don't worry about lying. Just pretend"?

A No.

Q You never told him that, sir?

A Never.

Q Prior to their Immigration interview did you ever prepare them for the question as to how they met; did you tell them to expect that question?

A I may have discussed it.

Q Did they tell you what they were going to say if they were asked?

A I think I just told them to tell the truth about everything.

Q When they went to Immigration they also were interviewed separately, were they not?

A Yes.

Q One before the other?

A Right.

Q And you were in the room while each was interviewed?

A Right.

Q Did the first person in your presence give the story about how they had met up at Margie Hernandez' apartment through a friend of Brian's named David Chang?

A Yes, I think that was it.

Q And after that first story was told, did you then tell the second person not to testify and not to give any statement to the Immigration official?

A No, I did not.

Q Did you tell them to withdraw their petition at that point?

A I did not.

Q Then the second person came in and told the same story about how they had met, is that correct?

A That's right.

Q And both of them told a lie?

A That's right.

Q In your presence?

A Right.

Q Was that a lie that you had told them to tell?

A No, it was not.

Q After they both told a lie did you then tell them to withdraw their petition? Yes or no, sir.

A No, I did not.

MR. KINGHAM: Your Honor, this would be an appropriate time.

THE COURT: We will take a ten-minute break.

(Recess.)

lhrl Chu-cross

Q Mr. Chu, in June and July of 1975 did you go up to Connecticut to see Brian Yeung?

A Yes, I did.

Q You testified, have you not, that you tried to get him on the telephone, but you couldn't do so, so you drove up there, is that right?

A That's correct.

Q You went up there with the wife of a friend of yours?

A That's right.

Q Her name is Mrs. Lee?

A Right.

Q Is it your testimony that you were present with Mrs. Lee in the restaurant and spoke to Brian at the restaurant?

A I think we just said hello in the restaurant.

Q After you said hello, what did you do?

A We went outside to speak.

Q Did you speak in the parking lot, in a car? Where did you speak?

A I think it was just to the side.

Q Was it your testimony on direct examination that you did not drive to some other location?

A That is correct.

Q Any conversation you had with Brien in Connecticut was had at the Cobs Mill Inn, is that correct?

A No, that is not correct.

Q Did you also have some in your car on your way down to New York?

A Yes, we spoke on the way down.

Q Did you not go to Conne cticut to see Brian because you were concerned about him?

A Yes, that's right.

Q Were you not concerned that if the immigration officers got ahold of him and asked him questions, that he would expose you?

A No, I was not concerned.

Q Did you not tell him that immigration might come around, so he better stay home at 2185 Valentine Avenue?

A No, I didn't.

Q Did you not tell him, Mr. Chu, that if he was ever asked, that he should insist that his marriage was a true marriage?

A I told him to tell the truth.

Q Please answer yes or no. Did you tell him that he should insist that his marriage was a true

marriage?

MR. FLEMING: Do I take it, then, that question is whether Mr. Chu said those exact words to Mr. Yeung?

MR. KINGHAM: That's my question, your Honor.

MR. FLEMING: Those exact words?

MR. KINGHAM: Or words to that effect.

MR. FLEMING: That's a little different.

THE COURT: Rephrase the question so there is no question about what --

MR. KINGHAM: I will, our Honor. Thank you.

Q Did you tell Mr. Yeung that night, either in Connecticut or on the way back to New York, that if he was asked by immigration about his marriage, he should insist that his marriage was a true marriage? Did you say those words to Mr. Yeung?

A No, I didn't.

Q Did you say any words to that effect to Mr. Yeung?

A To that effect.

Q Did you also tellhim that he should not say, if he were questioned, that he had been married and paid money to get married?

A No, I didn't.

Q This was around August, 1975, do you recall?

A I believe so.

Q At that time did you know you were being investigated by the immigration service?

A At that time I thought I might be.

Q Didn't you contact Brian Yeung that night in Connecticut to keep him from telling the truth in that investigation?

A No, I didn't.

Q You didn't?

A Didn't.

Q By the way, what time was it when you saw Brian in Connecticut?

A I would guess it was approximately 10:30.

Q Did you wait for him to get off work?

A I think he was just about through work.

Q What time was it when you had your conversation outside the restaurant?

A Maybe about a quarter to 11. I don't know exactly.

Q Had you ever before gone to Connecticut to contact Brian Yeung?

A No, I didn't.

Q Had you ever before tried to telephone him in

Connecticut?

A No, I didn't.

Q By "before," I mean before the time you went up there.

A You mean at the Cobs Mill Inn?

Q Right.

A I think when he was arrested I tried to contact him in Hartford.

Q But at the Cobs Mill Inn you never tried to contact him, is that right?

A No, I don't think so.

Q In December, 1974, did you go to Puerto Rico?

A I don't recall the date. It may have been.

Q Were you enroute to Haiti to work on a divorce case for a client?

A That's right.

Q By the way, did you have an associate in Haiti who handled divorces for you there?

A I believe at that time I had an associate in Brooklyn who was the forwarding attorney.

Q He was the forwarding attorney? If you want a divorce in Haiti, you would go to the attorney in Brooklyn and he would make arrangements with the people in Haiti, is that correct?

lhr6 Chu-cross

A That's correct.

Q Is that what you did in the case of the divorce between Mildred and Michael or Wun Chiu Fan?

A Yes.

Q You testified that you knew Perry Chang, is that correct?

A That's right.

Q And that he had uttered some threats to Lisa Hernandez or at least you were told --

A I didn't get that.

Q I am sorry, I will rephrase the question. I think it was confusing.

Were you told that Perry had uttered some threats against Lisa Hernandez?

A Yes.

Q She told you that? Right?

A Yes.

Q Did you not tell Lisa Hernandez on the telephone in December of 1974 that immigration might be looking for her?

A I think I told her that immigration might be looking for her in connection with an interview.

Q That was the phone call that you had with her when she was in Puerto Rico and you were in New York, is

that right?

A That's right.

Q Did she call you or did you call her?

A She called me.

Q Collect?

A Yes.

Q Do you have a toll record of that conversation?

A I must have.

Q Did you not during that telephone conversation tell Lisa Hernandez that you wanted to get your story straight with her, so you could both tell the same story if immigration came around, did you tell her that?

A I didn't.

Q In fact, hadn't Perry threatened to expose you to immigration, and you were afraid if you didn't get together with Lisa, he might expose you?

A He didn't.

Q Were you not afraid that if you didn't get together with Lisa she might expose you if asked by immigration?

A No.

Q Did Perry ever threaten you?

A Not directly.

Q What does that mean, Mr. Chu?

A He was very angry at me, and I had a feeling he had those thoughts.

Q He acted towards you in a threatening manner, would you say?

A It was an unfriendly manner.

Q Unfriendly manner?

A Yes.

Q Was that after Lisa refused to go through with the interview?

A That is correct.

Q To your knowledge, was that because you couldn't get Lisa to go through with the interview?

A Because I told her not to go through with it.

Q Because you told Lisa not to go through with the interview?

A That's correct.

Q Did you tell him that?

A Yes, I did.

Q Did you ever tell Barbara Harris that you wanted to get ahold of Lisa so you could get your story straight?

A No.

Q Did you ever tell Barbara Harris that

immigration was breathing down your neck?

A No.

Q Did you ever tell Barbara Parris that immigration was getting close to you and Lisa?

A No.

Q On your oath, sir?

A Yes.

Q You testified on direct examination that you didn't meet Lisa Hernandez until after she was married to Perry, is that correct?

A That's correct.

Q At the time you met her, Mr. Chu, did you tell Miss Hernandez that Perry would have to live in her apartment?

A I don't think I told her that, no.

Q Did you ask her where she lived?

A Yes.

Q What did she tell you?

A She gave me the address I put on the petition.

Q Someplace on East 80th Street in Manhattan?

A I believe so.

Q Do you recall going up there on at least one occasion?

1hr10 Chu-cross

A Yes.

Q To her apartment?

A Yes.

Q At the time you met her, did she not say that she didn't want Perry to move in with her?

A No, she didn't.

Q Did she not say that she hadn't known before she talked to you that Perry had to live with her?

A No, she didn't.

Q Did she say she had been paid any money to get married?

A Not at the beginning.

Q When did she tell you that?

A She told me later on.

Q When? If you know.

A I believe when she wanted to terminate the marriage.

Q Did she say at that time that she wanted to give the money back to Perry?

A Yes, I believe so.

Q And she just wanted to forget all about it?

A Right.

Q At that time didn't you tell her that she ought to reconsider and go through with it because

Perry needed his residence in this country?

A No, I didn't.

Q And Perry was a friend of Jimmy Yu's, was he not?

A That's correct.

Q You knew that?

A Yes, I did.

Q Youknew Perry worked at the Lantern Light Restaurant with Jimmy Yu, did you not?

A No, I didn't.

Q You didn't know that.

How many times did you go to Lisa's apartment?

A Once.

Q Did you meet Barbara Harris there that time?

A I think she was on her way out when I came in.

Q Did you ever meet a girl named Hazel Hernandez in Lisa's apartment?

A I think there was another girl there, I didn't --

Q Did you ever hear a girl called Che Che at Lisa's apartment?

A No.

Q Isn't it a fact that you knew that Lisa Hernandez was homosexual?

A No, I did not.

Q At the time you went to her apartment? Did you know that at that time?

A No, I did not.

Q Did you ever find that out?

A Subsequently.

Q In fact, didn't you ask her whether or not she were a homosexual?

A No, I did not.

Q In fact, didn't you tell Miss Hernandez that she should not have her lovers come to the apartment because the doorman would get suspicious?

A I did not.

Q You deny that?

A Yes, I do.

Q Did you ever have a conversation with Lisa Hernandez in your office in which you discussed with her her sexual habits and her sexual interests?

A I did not.

Q You absolutely deny that on your oath?

A I do.

Q Did you ever, Mr. Chu, ask Lisa Hernandez

whether or not her lovers would mind if Perry Chang stayed in the apartment?

A I did not.

Q If she so testified, it is a lie; is that correct?

A Yes.

MR. FLEMING: I object to that. That's an improper question, in my judgment.

THE COURT: Sustained.

The jury will disregard the question.

Q During 1974 after the wedding between Perry and Lisa, where did Perry live?

A That was after the wedding?

Q After they were married, where did they live?

A I believe he lived with her.

Q Isn't it a fact that he lived with Jimmie Hu in Jackson Heights?

A Not to my knowledge.

Q Did anybody ever tell you that he was living with Jimmie Hu in Jackson Heights?

A No.

Q You testified that you had a conversation with Lisa Hernandez on the telephone in which you made an appointment to meet in Puerto Rico; is that correct?

A That's correct.

Q What time was that appointment supposed to be for?

A I think it was three or four, whatever time my plane was due in, three or four in the morning.

Q Three o'clock in the morning?

A Yes.

Q Was Lisa Hernandez any dieferent in your mind from any other client you had or was she just another client?

MR. FLEMING: I object to that.

THE COURT: I don't know what the question means.

MR. KINGHAM: I will withdraw it, your Honor.

Q How many of your clients, Mr. Chu, have you met at three o'clock in the morning at the airport in Puerto Rico?

A None.

Q Indeed, you didn't meet Miss Hernandez there, did you?

A I didn't.

Q Do you recall having meetings with Barbara Harris in your office?

A I believe there was one meeting.

Q One meeting?

A I think so.

Q Did that meeting take place before you went to Puerto Rico?

A I think so.

Q During that meeting did you not tell Barbara Harris that you didn't want to talk to her on the telephone about Lisa Hernandez?

A No.

Q Did you not tell her at that time that you were afraid your telephone was tapped or bugged?

A I don't recall that.

Q Did you have any concern at all at that time that your telephone might be tapped or bugged?

A I don't think so.

Q Isn't it a fact, Mr. Chu, that you never talked about marriages and I-130 petitions over the telephone with your clients?

A I do speak to them about it.

Q On the telephone, sir?

A Yes.

Q Isn't it a fact, sir, that you always have your clients come into the office rather than discuss these matters on the telephone?

A No, we discussed it on the ph

Q Isn't it also a fact that y nave an answering machine to record messages on your telephone?

A Yes.

Q So if you are not in your office, you will know who has called you; is that correct?

A That's correct.

Q Do you save those tapes?

A No, I do not.

MR. FLEMING: Is Mr. Kingham inferring that there is anything unusual about that, if your Honor please?

MR. KINGHAM: I am not making any inference at all, your Honor, just asking a question.

THE COURT: I take it that is an objection. It is phrased as a question to me as to what Mr. Kingham intends. I haven't got the foggiest notion about the state of his mind.

MR. FLEMING: To be absolutely clear, I object, because I hear Mr. Kingham inferring that it is wrong to have a machine to receive telephone calls when you are not in the office. That is my objection.

THE COURT: Your objection is noted. I don't know what to do with it.

Q Mr. Chu, you testified that Alice Aviles threatened you, have you not?

A She tried to blackmail me, if you consider that a threat.

Q You met her down at Delancey and Pitt Streets, or around Pitt Street at that date late in June; is that correct?

A That's right.

Q At that time she said some things to you, did she not?

A She did.

Q What did she say?

A She said she knew that I had either killed or had killed Lisa Hernandez, and that I had hurt some of the girls, had them beaten up, and had threatened to beat them up.

Q Did she not say that unless you gave her $15,000, she would tell the authorities about that?

A She said she would tell the authorities, she would make accusations to the Immigration Service about me.

Q What were her words?

A "We are going to go to the Immigration Service and" -- I don't think I remember the exact words.

Q S: she threatened you, did she not, that she would go to the Immigration Service to say something about you unless you paid her $15,000?

A Yes, that's right.

Q You did not pay her $15,000, did you?

A I did not.

Q In fact, you didn't have $15,000 to pay her at that time, did you? Yes or no, sir.

A You mean in my pocket?

Q Did you have $15,000 available to you at that time to pay her?

A I had $15,000 in the bank.

Q Did you not tell Mr. Jout the next day in your office that you didn't have $15,000 to pay Alice Aviles?

A No, I did not.

Q Alice Aviles threatened to do something with the girls, did she not, that she and the girls would get together?

A Yes.

Q You knew at that time, did you not, that Alice Aviles knew Frances Torres, that they were acquainted?

A Yes.

Q And that she knew Tracy or Carmen Miranda

and that they were acquainted?

A Yes.

Q And that she might have known Mildred Miranda and that they were acquainted?

A Yes.

Q You also knew that she knew Jean Fong and that they were acquainted, did you not?

A Yes.

Q You knew that all those people were part of a friendly group, if nothing else?

A Yes.

Q Is that what you understood by "the girls" when she said "the girls and I"?

A Yes.

Q Did Lisa Hernandez ever try to blackmail you for $15,000, sir?

A No, she did not.

Q Did Barbara Harris?

A No.

Q Did John Jout?

A No.

Q Did Fan Wun Chiu ever shake you down?

A Pardon?

Q Did Fan Wun Chiu ever sgake you down?

A No, he did not.

Q Did Brian Yeung ever try to blackmail you for $15,000?

A No, he did not.

Q To your knowledge, did any of those people that I just mentioned have any connection with Alice Aviles? To your knowledge.

A They knew her.

Q They all knew her?

A I don't know whether Brian Yeung knew her and I don't know whether Wun Chiu Fan knew her.

Q Did you know for a fact that Lisa Hernandez and Barbara Harris knew her?

A No, I didn't know that.

Q Did you know for a fact that John Jout knew her?

A No, I didn't.

Q During your conversation with Alice Aviles on the street, did she not say to you in words or substance that if you didn't give her the $15,000 she was going to blow the marriage scheme wide open? Did she not say that to you, sir?

A No, she did not.

Q After she threatened to blackmail you, were

you not concerned that if she went to Immigration it would blow the marriage scheme wide open?

A No, I wasn't.

THE COURT: Why would she go to Immigration instead of the District Attorney with a murder threat or an actual murder? Do you have any idea?

THE WITNESS: No, I do not.

THE COURT: Did it occur to you as being strange that she was threatening to go to Immigration instead of to other law enforcement officials?

THE WITNESS: I found the whole thing very strange.

Q But you never reported it to the police, did you, this alleged blackmail attempt?

A No, I did not.

Q You never reported it to Officer Chase who has known you for seven years in the Fifth Precinct, did you?

A No, I did not.

Q You never reported it to the Federal Bureau of Investigation, did you, sir?

A No, I did not.

Q And you never reported it tothe Immigration Service?

A No, I did not.

Q Weren't you afraid, sir, that if she made false accusations against you that your career would be ruined?

A I felt I did nothing wrong.

Q Please answer the question yes or no.

Were you concerned that if she made false accusations against you, your career would be ruined?

A No.

Q You had no concern whatsoever --

A I had some concern.

Q But not enough to send you to the authorities?

A No.

Q Were you not concerned, sir, that if she went to Immigration, Immigration would find out that you had delivered $1500 in cash to the girls who had gotten married to Chinese aliens in the cases that you had handled? Were you not concerned about that?

A No, I was not.

Q There was no secret about that; is that correct?

A No.

Q Tell me, why did you handle that $1500 in cash?

A The parties both agreed that I should.

Q Like an escrow account; is that correct?

A You could call it that.

Q You were holding the money for your clients?

A Yes.

(Continued on next page.)

Q Wasn't the purpose of the delivery of the money to compensate the woman for marrying a Chinese man?

A It was --

Q Yes or no, sir?

A It was partially so.

Q They weren't being paid for anything else, were they?

A Possibly.

Q That you knew?

A I didn't know.

Q As far as you knew, they were being paid to get married, isn't that correct?

A Yes.

Q Was there any substance to any of the threats that Alice Aviles made against you?

MR. FLEMING: I don't understand that question.

THE COURT: I'm not sure I understand it either.

MR. KINGHAM: I will rephrase the question.

Q You testified that Alice Aviles threatened to go to immigration about Lisa Hernandez and your relationship with the girls, is that correct?

A That is correct.

Q Did she tell you what she was going to say to immigration?

A No, she didn't.

Q To your knowledge, at that time did she have any evidence that she could blackmail you with?

A None to my knowledge.

Q And you had no concern whatsoever that she might have something to blackmail you with?

A No, I had no concern.

Q Now, following the alleged blackmail attempt, did you have a meeting the next day in your office with Mr. Mok, Alice Aviles' husband, and with John Jout?

A I don't recall whether it was the next day or not.

Q Was there such a meeting?

A There was a meeting with John Jout and I, and Mr. Mok was -- had just -- was in the waiting room when John Jout left.

Q There was no conversation among the three of you, John Jout, Mr. Mok and yourself, concerning this alleged blackmail attempt, is that your testimony?

A I don't think between -- among the three of us.

Q You don't recall telling Mr. Jout in your office after this alleged blackmail attempt that ou were going to cal Jean Fong to get her to call the girls off?

A No, I didn't say that.

Q You never said that?

A No.

Q After this alleged blackmail attempt you wrote this letter to Lisa Hernandez in Puerto Rico, did you not?

A Yes, I did.

Q Did you give a copy of this letter to the police?

A No, I didn't.

Q Did you ever hear from Lisa Hernandez after you sent that letter?

A I don't believe so.

Q Is it your testimony, sir, that there was no illegal marriage ring to be exposed by Alice Aviles?

A That is correct.

MR. KINGHAM: I have nothing further, your Honor.

THE COURT: Do any of the other defendants have any cross-examination?

MR. BARRY: I have a few, your Honor.

MR. CONCANNON: I have a few, too. I

understood that there was going to be --

MR. FLEMING: I have two character witnesses, your Honor, who have been waiting all afternoon.

THE COURT: I have no objection to your taking them out of order, if counsel have no objection.

MR. BARRY: I have no objection.

MR. KINGHAM: I have no objection.

THE COURT: All right. You are excused.

(Witness excused)

MR. FLEMING: Phil Glaser, if your Honor please.

P H I L I P L. G L A S E R, called as a witness by defendant Chu, being first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. FLEMING:

Q Mr. Glaser, we met the other night. You know my name is Peter Fleming and that I represent Gene Chu, is that correct?

A Yes,sir.

Q Do you know Gene Chu?

A Yes, I do.

Q Do you see him here? Can you point him

out?

A Yes. He's sitting right at the table over there in a tan suit.

Q How long have you known him?

A Five years.

Q How did you come to know him?

A I know him through scouting. Gene has been affiliated with our local scout troop, and I'm the scoutmaster.

Q Where is that troop?

A We meet at church in the gardens in Forest Hills every Wednesday night.

Q Gene's boy is a member of the troop?

A Yes, he is.

Q And how long has Gene been working with the troop?

A Gene has been working with the troop five years on the troop activity committee. All parents are not automatically on the committee. Gehe has volunteered and has been on the troop activity commitee.

Q Does he take care of your summer camp program?

A He, yes. He's in charge of all our

camping activities.

Q Do you know other people who know Gene, too?

A Yes.

Q Do you know what they think of him in terms of his honesty and veracity?

A Yes.

Q What is his reputation for honesty and veracity?

A Excellent.

Q Do you personally have an opinion as to his honesty and veracity?

A Yes.

Q What is that opinion?

A I find his honesty beyond reproach. I would trust him with anything. He has handled monies for us down at the troop and all kinds of things for us, in the neighborhood, and without doubt, without question.

Q Mr. Glaser, when Mr. Chu was indicted did he offer to resign?

A Yes, he did.

Q What happened?

A We all refused and said he wasn't going to get out from under. We were sort of kidding him about it because it's a volunteer's job. But we don't question

him for one minute.

CROSS-EXAMINATION

BY MR. KINGHAM:

Q My name is Barry Kingham. I'm the prosecutor in this case.

What is your profession, sir?

A I am a sales representaive for an office furniture firm.

Q You live in Queens, I take it?

A Yes, in Forest Hills.

Q Have you ever been in Mr. Chu's law office in Chinatown?

A No, sir.

Q Do you know anybody named Frances Torres?

A No, sir.

Q Do you know anybody named Carmen Miranda, not the movie actress?

A Only the movie actress.

Q Do you know the movie actress?

A I don't know her but I've heard the name.

Q Do you know anybody named Tommy Hu, a young Chinese man named Tommy Hu?

A No, sir.

Q Do you know anybody by the name of Alice

Aviles?

A No, sir.

MR. KINGHAM: I have no further questions.

MR. FLEMING: Thank you very much, Mr. Glaser.

MR. KINGHAM: Thank you , Mr. Glaser.

(Witness excused)

MR. FLEMING: Walter Rydell.

E R N E S T A. W. R Y D E L L , called as a witness by defendant Chu, being first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. FLEMING:

Q Mr. Rydell, we met this afternoon. My name is Peter Fleming and you know I represent Mr. Chu.

Do you know Gene Chu?

A Yes.

Q Do you see him here?

A I don't think he's in the courtroom, is he? Yes, right over there.

MR. KINGHAM: We will concede the identification.

Q How long have you known Gene and his family,

Mr. Rydell?

A Oh, in the vicinity of over ten years. The early or mid-60s.

Q How did you come to know him basically, in what way?

A He's a member of my community and also a fellow church member.

Q Would you tell us what church that is?

A Yes, Grace Lutheran Church in Forest Hills.

Q Who is the pastor of that church?

A Pastor Douglas Hack.

Q Am I correct that the pastor wanted to appear for Mr. Chu?

A Pardon?

MR. KINGHAM: I object, your Honor.

THE COURT: Sustained.

Q Is the pastor's father-in-law very ill right now?

MR. KINGHAM: I object, your Honor.

THE COURT: Sustained.

Q Are you presently chairman of the stewardship committee of the church?

A Yes, sir.

Q What is that committee, sir?

A It's a committee that propogates christian giving in the church, disseminates the information to the congregation regarding where their funds are spent, how they are utilized, and other related matters of that nature.

Q Is Gene Chu a member of that committee?

A He is.

Q Do you know him as a member of that committee?

A Yes, and also the finance committee of the church.

Q Do you know other people that know Gene Chu?

A Yes. I know many people that know Gene Chu.

Q And do you know what his reputation is for honesty and veracity?

A Unquestionable.

Q Let me ask you one other question -- two other questions. What is your personal opinion of Mr. Chu's character as to honesty and veracity?

A I know of nothing derogatory or deleterious in his background. I know he's a respected member of the community and I know at the time that we were aware, or Gene mentioned this, a church council of --

MR. KINGHAM: I hesitate to interrupt Mr. Rydell, but I don't believe this is pertinent under the

rules, and I move to strike this part of the testimony as to specific acts.

MR. FLEMING: I will ask the question. I think your Honor will see that it is relevant.

THE COURT: I think so far it is. I am going to overrule the objection at this point.

Q Were you referring, Mr. Rydell, to Mr. Chu's indictment, just say yes or no?

A Yes, I was.

Q All right.

A Gene -- yes.

Q Did Gene offer to tender his resignation on these various committees because of the indictment?

A Yes.

Q What happened?

A There was an immediate response of the church council and they refused to accept his resignation. There was no reason to question his character, nothing had been proven.

THE COURT: I believe you are correct in the objection.

I think a specific act is not proper.

MR. FLEMING: It is, if your Honor please, it is my --

THE COURT: Have you got the rule?

MR. KINGHAM: The jury has heard the testimony. I will withdraw the objection.

THE COURT: The objection is withdrawn. The matter is closed.

MR. FLEMING: If your Honor felt I was improper I would strike it, but may I state that it is relevant in two respects. It is evidence of reputation.

THE COURT: No.

MR. FLEMING: You have a committee making a judgment, and it is a specific act which is allowed under the new rule. Those are my bases for asking the question.

MR. KINGHAM: Mr. Fleming and I disagree, but I'm perfectly happy to let Mr. Rydell testify.

THE COURT: The objection has been withdrawn. My remark is withdrawn. The jury will disregard the entire colloquy between counsel and the Court.

MR. FLEMING: I have no further questions. Thank you, Mr. Rydell.

CROSS-EXAMINATION

BY MR. KINGHAM:

Q You know that Mr. Chu is an attorney, sir?

A Yes.

Q My name is Barry Kingham. I'm the prosecutor in this case.

You know that Mr. Chu's office is down in Chinatown here?

A I'm not aware of the location of his office.

Q You have never been to his office?

A No, sir.

Q Are you familiar with any of his clients?

A Never been his client.

THE COURT: The question is whether you are familiar with any of his clients.

Q Are you familiar with them, do you know any of them?

A No.

Q At least you don't know people that you know are clients of his, is that correct?

A That's right.

MR. KINGHAM: I have nothing further, Mr. Rydell. Thank you, sir.

MR. FLEMING: Thank you, Mr. Rydell.

(Witness excused)

G E N E L O Y C H U resumed.

THE COURT: I assume that neither of the defendants has any cross-examination?

MR. CONCANNON: I do. I understand that Mr. Fleming has some redirect and it may obviate the necessity for me to cross at all. So I have no objection to him going first. I have a few questions, but it makes no difference to me if he redirects first.

THE COURT: It sounds like your cross was going to be more in the nature of redirect, if his redirect is going to obviate it.

MR. CONCANNON: Not entirely, your Honor. There are some things that he may wish to bring out which will make some of the things that I want to bring out unnecessary.

THE COURT: All right.

MR. KINGHAM: I object to that procedure. I ask that counsel be required to cross-examine at the proper time.

THE COURT: If you are going to cross-examine you should cross-examine before his redirect.

MR. CONCANNON: That is all right, your Honor, fine.

THE COURT: All right.

CROSS-EXAMINATION

BY MR. CONCANNON:

Q Mr. Chu, on your continued direct examination this morning you indicated some reasons why you expected each of the marriages for which you represented clients to be successful, and -- is that correct?

A I believe so.

Q And with respect to the Carmen Miranda-Jout marriage, you thought that they had a legitimate attraction for each other, did you not?

A Yes, I did.

Q With respect to the Torres-Hu marriage, since that was arranged by a family member of Tommy Hu, I believe you indicated that you weren't entirely certain what other reasons for the marriage were, is that correct?

A There wasn't the mutual attraction as the previous marriage.

Q You were aware of the fact, nevertheless, were you not, that Mrs. Torres wanted to get her own apartment, her own apartment, that that was a very important consideration?

A Yes.

Q That she had been sharing an apartment with

other witnesses, actually, here, and that she wanted her own home, is that correct?

MR. KINGHAM: Your Honor, I object to counsel testifying. Can we have a question put?

THE COURT: Sustained.

Q Is that correct?

MR. KINGHAM: I object, your Honor. I ask that the question be stricken and reput.

THE COURT: Rephrase the question, please.

Q Are you aware of any reason for the marriage, other than the ones that you had already indicated?

A Are you speaking of --

Q The Torres-Hu marriage.

A I think she wanted an apartment of her own.

Q Now, you have known the defendant Jean Fong, my client, for quite some time, have you not?

A Yes.

Q Do you know approximately how old she is?

A I could take a guess.

Q What would be your guess as to how old?

A 49.

Q Do you know how many children she has?

A I think four.

Q Their approximate ages?

A I think her daughter is maybe 23 or so. 22, 23, I'm not sure.

Q And she has younger children, does she not?

A She does.

Q Do you know where they go to school?

A I believe they go to Catholic school. I don't know exactly where.

Q Do you know her husband? You have indicated you do?

A Yes, I do.

Q He is a Chinese alien, is he not?

A Yes.

Q Do you know how long they have been married?

A Not exactly, no.

Q Approximately ten years, or more?

A I would say about ten.

Q Do you know her mother?

A I think I met her once. I'm not sure.

Q Do you know her mother's husband, or Jean Fong's stepfather?

A I've heard of him, I've never met him, though.

Q He's a Chinese alien himself, is he not?

A She told me he was.

Q Do you know how long they have been married?

MR. KINGHAM: Objection, your Honor, relevance.

(Continued on next page)

MR. CONCANNON: I can point out the relevance, your Honor. As I indicated in my opening statement, from her perspective, she had been a successful -- successfully married and her mother has been married --

MR. KINGHAM: I object to this statement in front of the jury.

THE COURT: It is irrelevant to the particular offenses charged here.

MR. CONCANNON: It is irrelevant?

THE COURT: I don't think it is relevant.

MR. CONCANNON: May I have a side bar?

THE COURT: All right.

(Side bar.)

MR. CONCANNON: Your Honor, Jean Fong's mother is married, or was married until his death three years ago, for some 29 years to a Chinese alien. She was raised by this man. She had, of course, an excellent experience, your Honor. She herself has been married to a Chinese alien for something just like over 11 years, 11 years this March.

I would like to be able to to argue that what she brought to Mr. Chu, or introduced to Mr. Chu, were girls with problems who she knew if they would be successful in their marriages would have solid hard working, dependable

men, and the fact that her father had this experience as well -- rather, her mother and stepfather, as well as her own experience with her husband, I think that is important to show that.

MR. KINGHAM: The Government's position is that, first of all, this is improper cross-examination of this witness. If the defendant Fong was to put in a case, she ought to put in a case.

Secondly, the relevance of that in connection with cross-examination of this witness as to his direct and previous cross-examination, it seems to me, is highly attenuated here and the defendant Fong is trying to put in her case through the defendant Chu. It seems to me that that is not appropriate.

MR. CONCANNON: If I may --

THE COURT: If that were the only objection --

MR. KINGHAM: It is not.

THE COURT: That seems like a pretty technical objection. He can recall the witness for that purpose in Fong's case.

MR. CONCANNON: It seems to me that what is so important here is what she had in mind when she made these introductions and what she contemplated when these marriages were under discussion.

THE COURT: The question is the mere fact that she was married for a number of years to an alien and that her mother was does not indicate that --

MR. CONCANNON: Of course not. It tends to show, and I want to argue -- the Government of course can say what does that mean that she had a good experience?

In fact, I want to argue -- whether or not I am going to put her on the stand yet or not, I am not certain of.

THE COURT: I suppose it goes to the weight of the testimony instead of its admissibility.

MR. CONCANNON: He can argue it and I can argue it.

THE COURT: But what do you say to the objection that this is improper cross-examination? Can't you recall Gene Chu in Fong's case?

MR. CONCANNON: Your Honor, if necessary.

Now, your Honor, as I understand it nowadays, the idea is to pretty much let things in and let the jury measure what they are worth.

If we have to go through the procedure of recalling him, it seems to me --

THE COURT: I take it that Mr. Kingham is not pressing that objection.

MR. KINGHAM: I am not. But it seems clear to me that the basis of Mr. Chu's knowledge of all this stuff is hearsay and for Mr. Chu to be allowed to testify to this, I would object to his being called on their case on the ground that --

THE COURT: Insofar as the mother's marriage is concerned, how would he know about that?

MR. CONCANNON: He did the legal work for her mother and though we may not even remember it now, he knows something of the family.

You know, certainly if we talk about what is hearsay and what isn't, that is what this trial is all about. That is what we are here on, hearsay, otherwise it would be -- it would probably take ten times the length of time it has.

THE COURT: Insofar as Gene Fong's own marriage is concerned, I will permit you to ask him if he has knowledge about how long she was married to the Chinese alien.

I guess you have already askedit, in fact. Before you ask about her mother I think you have to establish that he has some basis for knowledge and knows how long her mother was married, direct information as distinguished from hearsay.

(Open court.)

THE COURT: I am sustaining the objection to that question until a foundation has been laid.

BY MR. CONCANNON:

Q Mr. Chu, you have done different legal work where you represented the Fong family in various matters over the years, have you not?

A That's correct.

Q Have you done any legal work of any sort for Jean Fong's mother, that you recall?

A I don't think so.

Q Did you have occasion to represent her and her children in connection with the adoption proceedings whereby George Fong adopted some of her children?

A Yes, she wanted me to work on that.

Q Did you also have occasion to represent her in connection with money -- excuse me, represent her husband in connection with money that he still has in China?

A Yes.

Q Did you also have occasion to represent the family in connection with Certain housing problems on the Lower East Side?

A Yes, I did.

Q Do you know if she works?

A Yes.

Q For whom, if you know?

A Hertz Rent-A-Car.

Q Do you know what sort of work she does for Herta?

A I think she drives cars, but I am not sure of the exact nature of it.

Q Do you know her by any nickname? You have heard testimony certainly that people know her by the name "Mom."

A Yes.

Q Do you know her as such?

A I know she is called "Mom." I have never addressed her as "Mom."

Q Do you know whether or not her husband calls her by that name?

A I believe he does.

Q Do you know whether or not her mother calls her by that name?

A I think she does also.

Q She has had that nickname for at least so long as you know her?

A For many years. I'm not sure of exactly when I heard it first.

MR. CONCANNON: I have no further questions.

MR. BARRY: Just a few questions, your Honor.

CROSS EXAMINATION

BY MR. BARRY:

Q Mr. Chu, how long have you known the defendant Jimmie Yu?

A I would say about 12 to 15 years.

Q Have you represented Jimmie Chu and his sister in legal matters?

A Jimmie Yu.

Q Jimmie Yu.

A Yes, I have.

Q And did you represent him when he purchased his home?

A Yes, I did.

Q Did you represent his sister when she purchased her home?

A Yes, I did.

Q Did you represent him when he went into the sportswear business?

A I believe I did some work many years ago in his sportswear business, I don't recall.

Q Did you also represent him when he had some trouble with some traffic violations?

A Yes, I did.

Q Now, Mr. Chu, would you consider it unusual if Jimmie Yu sent friends to you as clients?

MR. KINGHAM: I object, your Honor.

THE COURT: Sustained.

Q Has Jimmie Yu ever sent you any clients?

A Yes, he has.

Q Would you consider that unusual?

MR. KINGHAM: I object, your Honor.

THE COURT: Sustained. That is the same question that was asked a minute ago.

MR. BARRY: I have no further questions, your Honor.

REDIRECT EXAMINATION

XX BY MR. FLEMING:

Q Just a few questions, Gene.

You were asked questions about when you notarized the I-130's. Do you recall those questions?

A Yes, I do.

Q It was your practice to notarize them as of the date you prepared them; is that correct?

A That's right.

Q When you prepared them you did your own typing?

A Yes, I did.

Q And the information that you placed on them you had received from the signatory and her spouse prior to you typing them, is that right?

MR. KINGHAM: Your Honor, I object. This is just direct examination all over again.

THE COURT: This was already covered, wasn't it?

MR. KINGHAM: It is the same question.

THE COURT: Covered on direct.

MR. FLEMING: I thought there was an inference that --

MR. KINGHAM: I object to any colloquy in front of the jury, your Honor.

MR. FLEMING: All right, Judge. It is late.

Q Let me show you the I-130 for Elizabeth Hernandez -- that is, Elizabeth Chang. Her marriage date is set forth as November 8, 1973.

A That's right.

Q She signed on that day?

A Yes, she did.

Q You notarized it on that day?

A Yes, I did.

Q Because you prepared it on that day?

A That's right.

Q Mr. Chu, Mr. Kingham asked you if you had ever

been to Cobs Mill Inn before you took the late night trip to see Mr. Yeung. Do you recall that question? Mr. Kingham asked if you have ever been up there before you went to see him --

A Yes.

Q And you said that was the only time?

A That's correct.

Q Prior to the time you went to see Yeung had you ever before been extorted for $15,000?

A Never.

Q Mr. Kingham ask you about the I-130 interviews. Remember he asked you if one spouse would go in and be interviewed and you would be with that spouse?

A That's right.

Q And then whether the other spouse would come in and be interviewed and you would be with that spouse?

A That's right.

Q Ane he asked you about the misrepresentations they made as to how they had met, do you remember?

A Yes, I do.

Q And did he ask you if after one spouse had made the misrepresentation you had spoken to the other spouse before the other spouse came in to ask questions?

A I believe he did.

Q And you told him you had not, is that right.

A That's right.

Q Isn't it correct, Mr. Chu, that the Immigration & Naturalization Service in connection with these I-130 interviews will not allow counsel to speak to the spouses between the interviews of each spouse?

MR. KINGHAM: Objection as to form.

I will withdraw it. It is late.

THE COURT: All right.

Q Do you have my question?

A Yes. That's correct.

Q In other words, you are not allowed to speak to them --

MR. KINGHAM: Objection, your Honor. Asked and answered.

THE COURT: He just answered that.

Q Does Mr. Hittelman work for Immigration & Naturalization Service?

A Yes.

Q Do you think he knows that rule?

MR. KINGHAM: I object, your Honor.

THE COURT: Sustained.

MR. FLEMING: Do you stipulate that that is the rule, Mr. Kingham?

MR. KINGHAM: I do not, sir.

MR. FLEMING: You do not? Okay.

I have nothing further, your Honor

THE COURT: Any recross?

MR. KINGHAM: Yes.

RECROSS EXAMINATION

XX BY MR. KINGHAM:

Q Mr. Chu, with respect to Government's Exhibit [illegible]-B, which is in evidence although it was not marked, that is the [illegible]sa Hernandez-Perry Chang I-130, is that correct?

A Yes.

Q And it is your testimony on redirect examination that this was signed in your presence on November 8, 1973 at your office; is that not correct, sir?

A That's correct.

Q Would you look at the signature purportedly of Elizabeth Hernandez. Does it not say first "E.T. Hernandez" and in parentheses "E. Chang" at least a first parentheses?

A It is "E.T. Hernandez" and then I believe it is -- there is the beginning of a parentheses and then Elizabeth Chang, but no closing parentheses.

Q No closing parentheses, is that correct?

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A Right.

Q Isn't it a fact, Mr. Chu, that this document was brought to you by Jimmie Hu already signed by Elizabeth Hernandez on November 8, 1973?

A No, it was not.

Q Mr. Chu, you were asked questions by Mr. Fleming on redirect examination concerning the procedure of the Immigration & naturalization Service in connection with the I-130 interviews.

Do you recall just a minute ago being asked about that?

A Yes, I do.

Q Is it not the practice that during the time that the client is being interviewed that the attorney is not allowed to speak to the client during the interview; that is the rule, is it not, sir?

A Yes.

Q Is there not a break in time of at least a few seconds between the time the two clients are interviewed?

A Yes.

Q And is it your testimony that during that time you could not tell the second client not to answer any questions?

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A Yes.

Q That is your testimony?

A Yes.

Q That you are not allowed to speak with the client at all?

A That's correct.

MR. KINGHAM: I have no further questions, your Honor.

MR. FLEMING: Okay, Gene.

MR. BARRY: May I ask one question that is so important to a lawyer?

RECROSS EXAMINATION

BY MR. BARRY:

Q Mr. Chu, the legal work that you did for the Yu's, were you paid for that?

A Yes, I was.

MR. BARRY: I have no further questions.

MR. FLEMING: Thanks, Gene.

(Witness excused.)

MR. FLEMING: Mr. Hittelman.

One question, your Honor.

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GARY HITTELMAN, called as a witness by the defendant Chu, being first duly sworn, testified as follows:

DIRECT EXAMINATION

BY FLEMING:

Q Mr. Hittelman, when you interviewed Jan Jout on July 1, 1975 did Jan Jout ask for your assurances that he would not be prosecuted?

A Yes, he did.

Q Did you discuss with Mr. Kingham the procedures on the I-130 interviews about which Mr. Chu has just testified?

A Could you repeat that?

Q Did you discuss with Mr. Kingham the procedures employed by INS during the I-130 interviews about which Mr. Chu has just testified?

A Yes, I have.

MR. FLEMING: Thank you. Nothing further.

THE COURT: Any cross?

MR. KINGHAM: No questions.

THE COURT: Thank you, Mr. Hittelman.

(Witness excused.

THE COURT: We will recess until 10 o'clock in the morning.

I have a meeting upstairs in just a few seconds.

(Jury excused.)

THE COURT: I have a couple of questions about the proposed charges. I don't have the charges in front of me,so I will try to paraphrase as well as I can.

I believe that Mr. Fleming has requested a charge which is to the effect that fraud against the Immigration & Naturalization Service could not be established by mere silence on the part of a defendant, even though false statements known by the defendant to be false were made in his presence to the Immigration & Naturalization Service, if he did not instigate the false statement or take some other affirmative action to suppress the truth.

I would like to know whether or not the Government objects to that proposed charge.

MR. KINGHAM: I do object to that proposed charge, and I will give you my reason, your Honor.

I have some serious objections to some of the other charges, too, and I would like an opportunity at a later time to bring those to the Court's attention and have a charge conference.

In any event, as to that one, the allegations

in this indictment are that the defendant assisted his clients to lie. They are not charged -- this is not a concealment indictment, it is an affirmative false statements indictment.

Even the conspiracy count does not charge concealment, it charges affirmative false statements. It is not the Government's position that the crim here was committed necessarily by Gene Chu simply sitting there while a client lied.

Obviously, you have the question of ethics, attorney-client privilege at the time of the interview while the interview was actually going on, and Mr. Chu's testimony reflected some concern for that and I did not press.

However, it seems to me the question of concealment is immaterial to this indictment. The only thing that is relevant to this indictment is whether or not the defendant assisted his clients to lie by affirmative action, that is, by telling them what to say and what not to say.

The fact that he sat idly by at interviews subsequent to the initial interview seems to me is a relevant fact to show that he knew what was going on, but that is not the crux of this indictment, obviously.

We don't charge this as a concealment indictment.

MR. SPRIZZO: Your Honor, if I can be heard on this question.

I think our position is quite simple, that that charge is correct and required. A conspiracy to defraud the United States under the applicable, well-settled hornbook case law requires a conspiracy to defraud, requires the impairment of Government function allegedly be achieved by, as the case law says, deceit, trickery or at least by means which are dishonest.

THE COURT: Let me say this, you didn't cite any authority in support of that proposed charge, and my quick look at the case says decided under Section 1001 doesn't give me any case one way or the other.

MR. SPRIZZO: We are not talking about 1001, we are talking about 371, conspiracy to defraud the United States.

THE COURT: 371 is a general conspiracy section. I think you are mistaken.

MR. SPRIZZO: This indictment, your Honor, charges a conspiracy to defraud the United States.

THE COURT: I know that very well. You don't mean to refer to 371. That is the general conspiracy

statute.

MR. SPRIZZO: We are not asking for that charge in connection with the false statement charges. We are asking for that charge in connection with the conspiracy charge, if I can explain what I mean.

The leading case, Hammerschmidt, Hass versus Engle, all those cases on 371 say that the impairment of governmental function must be achieved by deceit, trickery or at least by means which are dishonest.

There is a Second Circuit opinion of Judge Kaufman, which we will provide your Honor with overnight, and I thought it was cited, but through inadvertence it was left out, which says exactly that, that the fraud means affirmative acts of concealing, and that dishonesty is not enough.

So we think the jury must be told that before they are to convict any defendant in this case of a conspiracy to defraud the United States, they must find an agreement to cause affirmative lies to be told to the INS. A conspiracy to non-disclose is not sufficient.

We think that charge is required under the Second Circuit case law, and we think it is required under the general law on conspiracy to defraud.

We will provide your Honor with the authority

for that overnight.

THE COURT: Get that case to my chambers by nine o'clock in the morning, if you will, by telephone or otherwise.

MR. KINGHAM: We don't charge the concealment aspect anyway.

THE COURT: Then you don't object if I give that charge?

MR. KINGHAM: I don't object generally. I do object to the specific words as they were stated.

THE COURT: One other question I have, I am cutting you off because I am already late, but I am asked by the defendants to charge among the elements -- this is in connection with Counts 2 through 7 -- I don't have the charge in front of me, the proposed charge -- that the jury must find beyond a reasonable doubt not only that a false statement was made but that the statement was material adn that it was made before an agency of the United States Government.

It seems to me that there is no real question here, that representations were made to the Immigration & Naturalization Service, which is an agency within the meaning of Section 1001, and, further, that the question of whether the spouses were residing together, and if so,

at what address, is clearly material.

I think really all I should charge in connection with the elements under 2 through 7 is that the only issue is whether or not the defendant in question knew at the time that the representations as to place of residence and the fact that the defendants were living together as man and wife was false at the time it was made.

MR. FLEMING: I drafted that charge so I will speak very briefly to it.

It is a hard point. The Diego case, which is the really all fours in this Circuit, says that this kind of false statement conspiracy is in essence a common law perjury conspiracy, and I believe --

THE COURT: I think as a matter of law the statement here was material and it was made to an agency.

MR. FLEMING: Your Honor is saying that that really is a question for the Court. We had an experience with Judge Brieant, not in a thousand and one case, but in 1623 false swearing case, an unfortunate experience -- not because of Judge Brieant -- and he charged materiality and felt that it should be charged.

That plus the -- that experience plus the Diego case causes us to request that your Honor charge the jury on the question of materiality.

THE COURT: Under 1623 I have not the slightest doubt that materiality must be charged. But it seems to me here that the pivotal question on one of these I-130 inquiries is are the couple living together as man and wife? And if so, where?

I can't imagine anything more material, and it seems to me almost misleading to say to the jury they have got to decide whether or not that is a material matter.

MR. FLEMING: The only dispute we are saying, as a matter of record, we should state for the record we believe it is a question for the jury and your Honor should so instruct.

I understand your Honor to be binding that it is a question for the Court.

MR. KINGHAM: I know your Honor wants to get out, but first of all, under the branch of a thousand and one that is charged in the indictment in this case, materiality is not an element of the offense.

This indictment charges the part of 1001 which makes it a crime affirmatively to make any false, fictitious or misleading statements.

It again does not charge the concealment part of the statute. The cases are clear, U. S. against Rinaldi, which is 393 F. 2d 97; Marcheso, 344 F. 2d 653,

and United States against Silver in 235 F. 2d 375, that under that branch of the statute materiality is not an element.

The statute speaks of materiality only in terms of the concealment part of the statute, so not only is it a question -- first of all, I believe it is a question for the Court even in a 1623 case, but aside from that, it is not even an element of that offense.

One other brief point. I believe that the question of agency of the United States must be charged if only to avoid the unfortunate situation that arose in a case, the name of which I don't remember, but which recently came down where it was clear that the element had been proved but it was inadvertently not charged by Judge Costantino and it was reversed.

As a matter of law it should be charged that Immigration is an agency of the United States.

MR. FLEMING: What is your Honor's schedule?

THE COURT: More to the point, what are the defendants' schedules?

MR. FLEMING: We have possibly I think -- probably one more witness, the direct examination of which will be no more than 10 minutes, and I think that is our case.

That is for Chu.

THE COURT: What does the defendant Fong intend to do?

MR. CONCANNON: I am still not certain, but nevertheless I don't think it will be significant for scheduling problems because if I do put her on, she will be the only witness. Her direct testimony can't be longer than 15 to 20 minutes at the tops. That will be the ball game.

THE COURT: Mr. Barry, what say you?

MR. BARRY: Nothing your Honor.

THE COURT: You mean you don't intend to put in a case?

MR. BARRY: No.

THE COURT: I should think that if the estimates as might be expected are understated by a hundred per cent we will still finish by the morning break and we can start the summations -- we may not get them all in before lunch, but we should finish the summations and charge tomorrow, which I would like to do because I have all day Friday set aside for pretrial conferences, as you know, and that may avoid the necessity of bringing the jury back next week.

MR. FLEMING: If the jury gets the case tomorrow afternoon, will they come back in Friday?

THE COURT: Yes. They can sit even though I am having pretrial conferences and I can take time off to answer a question or do anything else that needs to be done in connection with them.

If they don't reach a verdict by qutting time on Friday they will come back on Monday.

MR. KINGHAM: I do have some substantial problems with the defendants' requests to charge. I would request just a brief confe ence before we begin our summations so that we know what to expect from the Court's charge.

THE COURT: I have a rule, the wisdom of which continues to impress me, that all proposed charges ought to be in a week ahead of trial and then we can work out all of these little difficulties in connection with the proposed charges.

It is some imposition on the Court to get proposed charges at noon on the day before they are they are supposed to be given, particularly where the charges are so lengthy and there are so many points of disagreement, and I have not even seen Mr. Barry's proposed charges yet.

I understand they were filed today. As you know, I have been occupied most of the day.

MR. BARRY: Yes, your Honor, I know that.

THE COURT: I have not gotten the Government's objections to the defendant Chu's proposed charges or Chu's objections to the Government's charges, and the strain that that puts on the Court, and perhaps to the detriment of the parties, is substantial. We can't undo that now.

MR. FLEMING: If the jury gets the case tomorrow, will they sit tomorrow night?

THE COURT: No. I never keep them late for the reason that, as you all know, it is not absolutely safe to go home late at night in New York.

I usually don't keep them after seven o'clock at the latest.

(Adjourned to Thursday, May 13, 1976, at 10.00 o'clock a.m.)

Chu

WITNESS INDEX

Name	Direct	Cross	Redirect	Recross
Robert Chase	868	870		
Gene Loy Chu (Resumed)	871	911 1072	1083	1087
Philip L. Glaser	1061	1064		
Ernest A.W. Rydell	1065	1069		

EXHIBIT INDEX

Defendant	Identification	In Evidence
I	878	879

UNITED STATES OF AMERICA

vs. 76 Cr. 439

GENE LOY CHU, et al.

New York, May 13, 1976;
10.00 o'clock a.m.

(Trial resumed.)

- -

(Open court.)

MR. KINGHAM: Your Honor, I have requested that we be given the opportunity to speak with you beforehand, for two reasons:

First of all, I understand that the next defense witness is going to be Mr. LaRocca, about whom there has been some testimony. He, I understand, was an investigator employed by the defendants, and I was going to request that the defense be required to give an offer of proof as to his testimony, and that after that offer of proof, that they be required, at least at the end of his direct examination, to turn over to the Government that portion of his ntoes which relate to his direct examination, under the authority of U. S. against Nobles, 422, U.S. 225, which was decided last year by the Supreme Court.

MR. SPRIZZO: As I told Mr. Kingham, we have no objection to him having access to those portions of the report which we will inquire about.

I think that is all the case entitles him to. He has agreed with that.

So what we have done is -- if I may submit it to your Honor, we are going to be asking about an interview of Carmen Miranda , and there are two of them -- these are the full interviews and this is the redacted interview of April 21, which indicates the questions we will ask.

This is the redacted interview of May 5. There is only one question that is blacked out on that one.

THE COURT: I would say this, Mr. Kingham, the parts that have been redacted from the first portion of this report are merely corroborative of the testimony that Carmen Miranda gave; generally, the story that she gave.

These portions are related to the portions that remain after the redaction, in the sense that they are all part of the story as to how she came to get married and so forth.

I don't know whether it will do you any good

to have them, the redacted portions, because it seems merely to be a brief statement of the story she gave on the stand.

MR. KINGHAM: Your Honor, it seems to me that under Nobles we are entitled to whatever notes relate to the witness' direct testimony.

It is the same standard that is applied under 3500.

Even if those portions are corroborative of the witness' testimony, it seems to me that we are entitled to see those so that we know what questions, or generally the gist of the interview that Mr. LaRocca had with Miss Miranda, because he is going to testify that he interviewed her on certain occasions and she said certain things, and we are entitled to know certain things which he claimed he was told.

MR. SPRIZZO: Nobles takes a very strict view of what the Government is entitled to, and our position is very simple, that the balance of the report does not relate to the particular inconsistent statement of which we are inquiring.

THE COURT: Actually, I can't really rule on that until I hear the testimony of the witness.

MR. SPRIZZO: Our offer of proof will be

limited to those -- we will ask him basically about two areas:

One, the preparation for the intervciew, and, two, what she said about where she lived after she got married.

We think nothing else in that report would be admissible on the Government's behalf, in any event.

THE COURT: I will withhold final ruling until I hear the witness' testimony to make sure that your offer of proof is a fair representation of what he actually testifies about.

I think the redaction from the May 5, 1976 report is appropriate.

(Continued on next page.)

1B

MR. SPRIZZO: I am pretty much turning over that entire report, sir.

THE COURT: All but one question and answer.

MR. KINGHAM: It might save time if those can be turned over to the government before the witness testifies so that I won't have to take a break before cross-examination.

THE COURT: Do you have any objection to that?

MR. SPRIZZO: I don't think the law requires it but we have no objection.

MR. KINGHAM: It clearly doesn't require it, I'm just asking if you do that.

THE COURT: We can get them Xeroxed.

(Defendant's Exhibits L, LA, LB and LC were marked for identification)

THE COURT: Let me say with respect to the proposed charges, time doesn't permit me to go through in detail, but I believe that I am giving the substance of virtually everything that each of the defendants has requested by way of charge.

I have melded these in with the government's proposed charges, in some cases I am giving the government's charge, other cases the defendant's, but

in each case I think I am giving the substance of everything that everybody has requested. I am eliminating only duplications and maybe inserting a little connective material so that it will flow a little better.

MR. KINGHAM: Your Honor, if I may be heard particularly with respect to the defendant's request on the conspiracy charge and with respect to the nature of bona fide marriages. The government believes there are significant legal difficulties and also difficulties related to the indictment in the defendant's conspiracy request particularly, which is, we submit, entirely misleading as it relates to this indictment, and I have requested to be heard because I certainly don't want the jury to go off on the wrong foot there.

MR. SPRIZZO: It is a standard conspiracy charge.

THE COURT: I have taken the defendant Chu's instructions on conspiracy. I have modified them slightly, but in substance they are what the defendant Chu has requested, so I better hear you if you have any objection.

MR. KINGHAM: I have, your Honor.

The first problem -- and this is charge 3 -- request No. 3 of the defendant --

THE COURT: All right.

MR. KINGHAM: The third paragraph reads that with respect to the elements of conspiracy, it says that the -- at the time alleged in the indictment, an agreement existed between two or more and so forth, to commit at least one of the crimes described in count 1, to wit: Filing false writings and documents with INS and obstructing and interfering with an INS proceeding by advising witnesses to lie.

Thatis not what count 1 charges.

THE COURT: I am modifying that to conform to the indictment.

MR. KINGHAM: Our point for the record is that the obstruction aspect is only one of the means listed in paragraph 5 of the indictment, and this is general conspiracy to defraud the United States.

MR. SPRIZZO: In what manner?

MR. KINGHAM: Excuse me?

MR. SPRIZZO: I've also understood the government based upon its particularization in the indictment to charge that the functions of INS were impaired by false statements and lies, isn't that true?

MR. KINGHAM: The indictment charges, first, that this is a conspiracy to defraud the United States,

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if you read the count, and secondly --

MR. SPRIZZO: I would agree with that. The government is probably correct in the sense that our charge might not be properly phrased. I understand the charge to be a conspiracy to defraud the United States by impairing the function of the INS, by filing false documents and obstructing, is that what you are saying?

MR. KINGHAM: We submit those are only two of the possible means, and with respect tothe defendants Hu and Fong, obviously their part in the conspiracy, and the means that they engaged in, were not the actual filing or the actual making of false statements. Indeed, they didn't even have to know specifically that the false statements were made or that the witnesses were coached to lie.

All that the defendants Hu and Fong would have to know here was that this was a conspiracy to defraud the United States into believing that these people were married only for the purposes of obtaining residence and that these were not bona fide marriages and that they took part in that.

I submit that by narrowing the elements such that it indicates that this is merely a conspiracy

to file false writings and to obstruct and interfere with an INS proceeding by advising witnesses to lie, only by that, is misleading, and that's why I submit that the government's charge on conspiracy is more accurate becaues it lays out the means of the conspiracy as --

THE COURT: I have already changed that part of the request to conform to the indictment. When I say I have taken their charge on conspiracy, I have taken their definition of what a conspiracy is and of the elements without specific reference to the offense charged here.

MR. KINGHAM: Thank you, your Honor. Those do parallel the government's request and we do not object to that.

In the same requet to charge, that is request 3, the pages aren't numbered, but it's the third page from the end of that request, that is counting back from request 4 three pages --

THE COURT: I have it.

MR. KINGHAM: The first paragraph on that page says "Those are the three essential elements of the conspiracy" the first paragraph that begins on that page.

THE COURT: Yes.

MR. KINGHAM: The third paragraph begins "The indictment charges and the government contends. . ." We submit that is erroneous for the same reason.

THE COURT: All right. "To defraud the United States."

MR. KINGHAM: That is correct. I have no objection to the defense of multiple conspiracies, but on the last -- I'm sorry, I have no further objections to that charge, your Honor.

THE COURT: All right.

MR. KINGHAM: Request No. 4 says "Conspiracy to defraud. . ."

THE COURT: I haven't taken their request 4, I don't believe. Yes, I have, except that I have left outthe first sentence.

MR. KINGHAM: Your Honor, the conspiracy --

THE COURT: -- and I've -- I've taken the first page of their request 4, left out the first sentence and left out the last incomplete sentence on that page.

MR. KINGHAM: The problem with the first sentence that remains, it says "As I previously instructed you, it requires that the government functions of a government agency be impaired. . ." That suggests that the conspiracy has to succeed.

MR. SPRIZZO: I would agree with that, your Honor, that they agreed to impair is really proper.

THE COURT: Yes. You are correct.

MR. KINGHAM: I agree that the references to silence or non-disclosure should remain in on this indictment, but I suggest this condition, the sentence reads "Mere silence or mere non-disclosure of information to the Immigration and Naturalization Service is not sufficient to constitute the affirmative acts of concealment which a conspiracy to defraud requires."

I submit that should read "which the conspiracy charged in this indictment requires."

THE COURT: All right.

MR. SPRIZZO: Did your Honor say you were going to take out the last sentence?

THE COURT: It is repetitious. I have already said mere silence isn't enough. Now you are asking me to say it again.

MR. SPRIZZO: We just think, your Honor -- we have a special charge on that, so maybe that will cover that.

THE COURT: I think once is enough. The charge is overlong already.

MR. SPRIZZO: This is a particular request

in view of what the government apparently agreed to yesterday in argument, that the silence of the attorney at the interview does not constitute what amounts to a tacit admission because of his duties as an attorney. That may cover the problem.

What we are worried about is the possibility that the jury will convict or acquit Mr. Chu based upon the fact that he said nothing when these people were interviewed. We think that is a possibility here under these facts. The government really went into this to great length on cross-examination.

We don't dispute that if the jury finds he qualified those false statements to be made of course he should be convicted, but we don't want the jury to be in a situation where silence provides that proof, and that's why we think we need a little protection.

If your Honor takes out that portion of the charge, we would submit these two alternative requests, whichever one the Court chooses to give.

THE COURT: Do you object to the last sentence on the first page of request 4?

MR. KINGHAM: I object to the repetition, your Honor, and I do object to both requests that Mr. Sprizzo has handed up for some specific reasons.

THE COURT: My problem with the last sentence on the first page of request 4 is not merely that it's repetition but also that it's incorrect or misleading in that you can defraud the United States Government -- you can be a party to a conspiracy to defraud the United States Government even though you sat silent while somebody was making -- even though at the interview all you did was sit silent.

You may have prepared the person or may have known in advance that the person was going to make misstatements, and you may have set up a situation in which such a disclosure was to be made.

MR. SPRIZZO: We think our next sentence covers that, your Honor. I believe it is a balanced charge. You must find more. If you find that he agreed to cause false testimony to be given, then, of course, you convict him. If all you find is while he sat there false statements were made --

THE COURT: If that's all you find --

MR. SPRIZZO: That is all we say. Then I would agree with that modification. If all you find, then you must acquit him.

THE COURT: That isn't what the last sentence says. It says if you found that he didn't disclose anything himself and that he merely sat silent while representations were then made, that might suggest to the jury that if at the interview all he did was sit silent, then you can't convict him, unless he made a representation himself. That isn't a correct charge.

MR. SPRIZZO: I would agree with your Honor's modification to that charge. Thus, if all you find is that the defendant Chu didn't disclose, the charge would then be correct.

THE COURT: In your charge 5 I have modified that so that it says you must find that the defendant with full knowledge that a false statement

was being made or false testimony being given acquiesced in such testimony, such statements or statement, with the specific intent of defrauding the United States of America --

MR. KINGHAM: I have no objection to that, your Honor.

THE COURT: I think it is covered by that.

MR. KINGHAM: My one problem with the "silence" aspect, and this might be an appropriate time to take up the request that Mr. Sprizzo just handed up because it relates to the ethical obligations of the attorney --

THE COURT: Excuse me, I was writing. I didn't hear you.

MR. KINGHAM: My problem with the "silence" aspect of the evidence in this case is as follows. I think this might be an appropriate time to take up that request which Mr. Sprizzo just handed up to the Court, he is suggesting in both requests that Mr. Chu as an attorney had an ethical obligation not to disclose to the immigration service the contents of any privileged communications, and so forth.

That may well be true, with one exception, and that is that the law is that if the attorney is

engaged in the commission of a crime and if the communications are made in the furtherance of the commission of a crime, A, they are not privileged, and, B, the disciplinary rule 7-102(B)(1) and (2) of the ABA Code of Professional Responsibility requires that a lawyer who receives information that his client is perpetrating a fraud must immediately call to his client's attention that, and ask him to rectify it. If the client refuses, he is required to reveal the fraud to the tribunal that the person is perpetrating the fraud on.

We are dealing here with very touchy ethical questions which I submit are not appropriate for the jury.

MR. SPRIZZO: In answer to Mr. Kingham, the first request was prepared upon Mr. Kingham's representation yesterday that he agreed with that position. In the event that we anticipated he might change his mind, we submitted two requests.

THE COURT: No. I think what he said he agreed with was that Mr. Chu, because of his attorney-client relationship, was ethically privileged not to speak up at the interview. That doesn't mean that he has to sit silently by while his client with his knowledge and

assistance perpetrates a fraud on the Immigration and Naturalization Service.

MR. SPRIZZO: That is precisely the reason why we submitted an alternative request. The alternative request says if your Honor is not disposed to give our first charge, the alternative request puts it in terms of Mr. Chu's honest belief.

Whatever the ethical obligations of an attorney may or may not be, if that issue is not going to be in the case because it is too confusing from the government's point of view, there isn't any doubt that since this is a fraud case requiring specific intent of fraud, the jury should be instructed that if Mr. Chu held that honest belief, regardless of whether or not he was correct in that belief, they should draw no adverse inferences against him.

I think that is an unquestionably proper charge, given the circumstances of this case.

THE COURT: That's a little like saying that ignorance of ethical responsibility towards the Court or in this case the agency is a justification for remaining silent while a fraud is being perpetrated by the client.

MR. SPRIZZO: Your Honor, the law is crystal

clear and it is hornbook, that in a fraud case, which this is, the good faith of a defendant, however foolish, however stupid, however ignorant, is a total and complete defense.

What I am saying to you, and I think Mr. Kingham will not quarrel with that proposition, what I am saying is that regardless of whether Mr. Chu was foolish or stupid or ignorant, this is a fraud case, and the maxim about ignorance of the law being no excuse has no applicability.

If government must prove a specific intent to defraud. The government must prove an evil or corrupt state of mind. Therefore, in this type of case that maxim has no applicability.

The second request we make is unquestionably correct, that if Mr. Chu held that honest belief that he couldn't speak because of his professional responsibilities, then no adverse inferences can be drawn against him for his silence, period. That's the way the second charge is worded.

I think the government can't even disagree with that.

MR. KINGHAM: I certainly would dispute that that's the way the second charge is worded. First of all,

the charge in this case is replete with references to good faith being an absolute defense. The government doesn't quarrel with that.

It seems to me that to raise -- the defendant has testified that he didn't disclose the communications because he felt ethically bound as an attorney, and it seems to me that although that testimony is in the case, the government doesn't charge here that Mr. Chu failed in his ethical obligation to call this to the attention of the immigration service.

The government simply charges in connection with this evidence that Mr. Chu failed to have his clients withdraw their statements, that Mr. Chu sat there idly by while his clients lied and that he knew about it and that he furthered it -- in furtherance of the conspiracy. It seems to me that this charge has no place in this case on those facts.

THE COURT: I think perhaps the simplest thing to do would be to modify that last sentence on page 1 of request 4 in a way that will be acceptable to the government and at the same time take care of this problem by simply saying in effect that the government must do more than prove that he remained silent during the interviews.

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Would that be satisfactory to all?

MR. KINGHAM: I would so request, your Honor.

THE COURT: All right.

MR. SPRIZZO: We still think that charge should be given, your Honor, so we will take our exception at the time.

THE COURT: If we get into that ethical problem, we are bringing in something that can only confuse the jury.

MR. SPRIZZO: It is his testimony. He has testified to that. If the jury believes his testimony, it must acquit him.

THE COURT: I think this takes care of it because I am charging that they cannot find him guilty unless he agreed with the others to defraud the United States Government and that this requires an intent on his part, it requires an evil motive on his part. If he is guilty of those things, then certainly the attorney-client privilege becomes utterly irrelevant.

MR. FLEMING: Your Honor, I agree with that. The only problem I have is does the jury understand the attorney-client privilege.

THE COURT: That's why I will leave it out.

I will not mkae any reference to it.

MR. FLEMING: Judging from a layman's attitude towards attorneys, that he may say what a pile of nonsense, the guy has a privilege not to disclose. It is craziness. But it is not crazy. I have read what Mr. Kingham said, talking about past frauds in the first instance, I undertood my obligations, for example, if I had a witness onthe stand during the course of a trial and that witness testified -- gave testimony which I believed to be false based upon perhaps prior interviews, I could not withdraw from the case, I simply couldn't rely upon the reputation.

That's how I view it. I think it is very much the same thing.

MR. KINGHAM: I understand that, your Honor, and I don't quarrel with Mr. Fleming's statement. The only problem here is that if we were to get into the ethical question -- first of all, we are not talking about the attorney-client privilege as it relates to communications, because, there is no allegation here that the defendant failed to call this to the attention of the service, as I made clear before. I suggest --

MR. FLEMING: I argued that --

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MR. KINGHAM: It was not argued. I suggest by putting that into the case you raise the entire question of attorney-client privilege as it relates to privileged communications between attorneys and clients, and that is not in this case.

MR. FLEMING: It was in the case on cross-examination. If your Honor would simply say that when Mr. Chu testified he did not correct his clients because he believed himself bound as an attorney, the good or bad faith of that is for you to judge --

THE COURT: If I tell them that the Government will have failed to prove its case if all it proves is that Mr. Chu sat silent while his clients were making false statements which he knew to be false, doesn't that really take care of it? If he did more than that, he either instigated the statements or knew in advance that they were going to be made and did nothing to stop them.

MR. FLEMING: I will not argue any further. I think we will have to take an exception onthe refusal to charge the supplemental request.

MR. KINGHAM: I will be happy to take that up on the 17th floor if it is necessary, your Honor. I request the charge as the Court suggests.

THE COURT: I will go along with that.

Anything further before we bring the jury in?

MR. KINGHAM: I have one brief matter, your Honor.

Request No. 6 of the defendants, the elements of the false counts --

THE COURT: I am not giving that. I am giving your proposed charge instead.

MR. FLEMING: May I speak to that, your Honor?

THE COURT: Yes.

MR. FLEMING: Their proposed charge is No. 13(A)

THE COURT: Yes.

MR. FLEMING: The last sentence, in addition to --

THE COURT: It is 13 and 13(A).

MR. KINGHAM: I have no objection to striking the last sentence of 13(A).

THE COURT: I have already done it.

MR. KINGHAM: It is incorrect. I submit that request No. 7 of the defendants is really merged into the reckless disregard charge.

THE COURT: Yes, I am not giving that. I am also not giving their charge No. 9 on materiality.

MR. FLEMING: May I speak to that, your Honor?

3hs

THE COURT: You may.

MR. KINGHAM: I believe we covered that yesterday.

THE COURT: I am giving instead the Government's charge.

MR. KINGHAM: 14 and 15 are knowledge and intent.

MR. SPRIZZO: We are talking about materiality.

THE COURT: Chu's request No. 9. The statute says nothing about materiality.

MR. FLEMING: I am sorry we are late, we are derelict in this, but when your Honor raised the question of materiality, we went back and chewed the fat, we realized that this conspiracy count charges a conspiracy to violate 1001 and 1546, the Immigration statute. Then we remembered a case we argued in this Court of Appeals and we think they upheld us on this point.

Where there is a specific statute, and that is Section 1546, which governs this particular I-130 petition, under Kemper against the United States, Shelton against the United States and United States against Wexler and we believe under the Court of Appeals decision in United States against Cahn, the Government cannot pick and choose among statutes. If your Honor reads 1546, it says the

statement must be material.

We have another motion based upon that, but there is no question that they cannot use 1001 which does not require an oath, which may not require materiality, although we do not agree with that, which has a greater punishment, when the specific statute is available. I can submit these cases to your Honor.

United States versus Moran, 236 F. 2d 361. Our Court of Appeals said both parties agree that where a general and specific statute cover the same offense, the specific statute controls.

In the Cahn case, what happened in the Cahn case is that the Government -- Cahn had a recantation defense available, so the Government, rather than indicting him under 1623, which was the new statute government false swearing in the grand jury, indicted him under 1621 where recantation is not a defense.

The Court of Appeals said that while it is clear that 1623, which applies only to grand jury and court proceedings, does not wholly replace 1621, we admit great skepticism about the second half of the Government's argument. While perhaps Congress constitutionally could have placed such wide discretion on the prosecutor, that is to pick and choose, we find no case that says it meant

5hs

to do so. We find it not a little disturbing, the prospect of the Government using 1621 whenever a recantation defense exists and 1623 when it does not, simply to place perjury defendants in a most disadvantageous trial position. We do not reach the merits of the Gofernment's position that there was harmless error.

They clearly adopt the reasoning of the Shelton, Wexler and Kemper case and the statement in the Moran case, that where you have a general statute, 1001, a specific statute, 1546, where there are material differences, the Government must proceed under the specific statute. They cannot just pick and choose to the prejudice of the defendant.

THE COURT: You are saying in effect that 1546 has effectively repealed 1001?

MR. FLEMING: No. We are saying 1546, which is specifically the statute enacted by Congress to deal specifically with these I-130 petitions, provides for a five-year penalty, $2000 fine, it provides that the statement must be made under oath and it provides that the fact which allegedly is misstated must be material. Significant differences from 1001, which is the general false statement statute.

We say these cases, Kemper, Shelton against

the United States, Wexler, the Moran case and the Court of Appeals dictum in the Cahn case --

THE COURT: Under what circumstances would you believe the Government could indict somebody under 1001?

MR. FLEMING: When you have a regular false statement not covered by a specific statute.

THE COURT: Here we had statements made under and and some not made under oath. By limiting it to the statements made under oath and material statements, the Government would be precluded from a lot of the proof in the case.

MR. FLEMING: The statements not made under oath are covered by the obstruction of justice counts, I believe, your Honor.

MR. KINGHAM: Your Honor, we are talking at this point on the charge, elements of the substantive crimes under 1001. The defendant is not charged with the substantive crime under 1546.

THE COURT: That I realize, that is why I am asking him when could the Government charge 1001.

MR. KINGHAM: It would seem to me, your Honor, that, first of all, this argument might have been interesting in a pretrial motion to dismiss the indictment, but

7hs

it was not made. It is now made on the eve of the charge, on the very day, and, furthermore, it seems to me that there is absolutely no reason to charge materaility when the defendant simply is not charged with that offense.

MR. FLEMING: Our point is that the substantive counts do charge 1001, and that illegal where a specific statute, 1546, is available and it has material differences.

THE COURT: I do not follow that reasoning at all. What you are saying in effect is that whenever 1546 may have been violated, the charge must be under 1546 and cannot be under 1001.

MR. FLEMING: That is what the cases are, your Honor.

THE COURT: No. That case refers to 1621 and 1623, and the relationship between those two statutes is not necessarily the same as the relationship between 1001 and 1546.

MR. FLEMING: Your Honor, the Wexler, case, 158 Federal 579, Second Circuit case, the defendant was indicted for perjury under the general perjury statute while giving testimony upon oath as to certain of his transactions before a special commission in bankruptcy.

The Court held that the principle of construction to be applied, unless there are some special considerations which prevents such application, is too well settled to require the citation of authority. The later special statute, that was the statute which governed false swearing in bankruptcy proceedings, the later special statute operates to restrict the effect of the general act of the general perjury statute from which it differs. It reversed that conviction.

THE COURT: Before we take any further time on this, Mr. Kingham, I happen to think that you are right, but is there any harm in charging materiality since if there is anything in the world material to an I-130 petition, it seems to me it is whether or not the two spouses are living together.

MR. KINGHAM: I agree with that, your Honor. However, there is harm in charging materiality because materiality, even in a perjury case, is an element for the Court and not for the jury. It is not a question of fact. The question is whether or not these things are material as a matter of law. If they are not material as a matter of law, the case goes out.

THE COURT: You are quite correct. In a perjury case the issue of materiality is an issue of law

9hs

for the Court.

All right, on your risk, I will follow your recommendation.

(Continued on next page.)

MR. KINGHAM: I will take the risk, your Honor.

My last -- at least I hope it is my last, and probably one of my strongest objections is to the defendants' request No. 11. That is in the nature of marriage.

THE COURT: Well, I have modied that very substantially --

MR. KINGHAM: Perhaps your modification has taken care of one of the bigger problems, your Honor, and that is --

THE COURT: Let me see if I can find it, first.

It comes early in the charge.

MR. KINGHAM: Our request No. 2. The last page of our request No. 2.

THE COURT: Yes. As a matter of fact it follows that in the charge that I will give. I am leaving out the first paragraph in its entirety, and I am leaving out the first sentence of the second paragraph, and I am also omitting the sentence which reads:

"You may consider as factors whether the marriages at issue were lawful and . . ."

because I have already charged that the Government has conceded that the marriages were valid under the laws of the State of New York.

MR. KINGHAM: Furthermore, your Honor, it is clear from the Panopolis case case that in an indictment drafted such as this the issue of validity under State law is irrelevant.

Defendants claim otherwise under Diego, but Panopolis, which we have cited, and which I am sure the Court is familiar with, distinguishes Diego and points out that in an indictment such as this, that the validity of the marriages under State law is irrelevant; that is not the question.

MR. SPRIZZO: We object and except most strongly to any charge to the jury that the validity of the marriage is irrelevant because we think that the intent of the marrying parties is a circumstance which bears upon the question of whether or not the marriage is bona fide ro sham.

If they think they married under New York law, hat is a circumstance which bears upon the question of whether the marriage is bona fide or sham. I don't see how to get around that question.

If two people get married before a Justice of the Peace, that is a factual circumstance -- we don't say it is controlling -- which will bear upon their intent whether they think they are married or intended to be

maried.

We don't think it is a sole consideration. If your Honor is going to tell the jury that the Government agrees they are validly married, fine, but I don't think the Court should tell the jury that the validity of the marriage under New York law is irrelevant --

THE COURT: I am going to say the Government does not contest that it is a valid marriage.

MR. KINGHAM: Under State law.

THE COURT: That's right. Everybody knows that the issue is whether or not it is bona fide --

MR. KINGHAM: I have no objection to that. I am also concerned -- the factors that are mentioned in the defendant's request following that, about whether they intend to share a life as husband and wife and so forth, I have no objection to those reading to the end of the word "you may consider whether the parties intended their marriages to be real and bona fide marriages, but there are other factors as well that are to be considered."

Such as whether or not they were made for money, whether or not they had agreed beforehand that they would divorce, and such other factors.

THE COURT: I am leaving out most of those specific things. All I am sayiny by way of specific

bs4

factors they should consider is whether or not they intended to share a life together as husband and wife, and whether they intended to assume the mutual responsibilities and obligations of husband and wife.

MR. KINGHAM: I have no objection to that.

THE COURT: -- in the light of all the other circumstances.

I have said that the mere fact that they were paid sums of money does not mean that the marriages were sham and spurious.

MR. SPRIZZO: Will your Honor tell that to the jury in your charge?

THE COURT: Yes.

MR. KINGHAM: An amendment to that should be made to tell the jury also, however, that is one of the factors you may consider in determining whether they were shams or --

THE COURT: Yes, that is in the charge.

MR. KINGHAM: I am finally concerned about the sentence on the second page of that charge, that similarly the fact that a marriage is entered into for the sole or primary purpose of obtaining permanent residence --

THE COURT: I have changed that to read similarly, that a marriage is entered into with a specific

intention for qualifying for permanent residence is not -- with a specific intention, you see. That does not mean that that is the sole intention.

MR. KINGHAM: I have no problem with that as long as that is coupled with the other things that the Court has mentioned, and I am sure it is, in the Court's charge.

THE COURT: Yes.

MR. KINGHAM: Request No. 12 as to credibility, I have no objection to that, your Honor.

Request No. 13 as to accomplice testimony, I have no objection to that, but I submit that the --

THE COURT: I have used your charge, which I think incorporates all of the proper substance of their charge.

MR. KINGHAM: Request No. 14, it seems to me that credibility of prosecution witnesses on immunity -- immunity is only one factor to be considered, and I submit that this charge unfairly comes down to immunity, and it is not a balanced charge.

MR. SPRIZZO: I think we are entitled to a specific charge as to immunity being -- that is a very potent subject. The Government traditionally asks for a charge along the lines that a defendant as a witness has

more interest in the outcome of the case than another witness.

It seems to me that the interest of a witness under immunity is at least as great as a defendant, and we are entitled to a special charge on that.

THE COURT: I am going to give a charge on immunity, except I am leaving out part of it.

For example, the sentence that reads:

"Experience has shown that witnesses in such a position may be motivated to place the blame on someone other than themselves . . ."

and the statement:

"You should never convict another man upon the unsupported testimony of an alleged accomplice unless you believe that unsupported testimony beyond a reasonable doubt . . . "

-- I have given so much reasonable doubt that that is superfluous.

MR. KINGHAM: Defense request No. 16, the failure to call witnesses --

THE COURT: I am not giving that charge. It cuts both ways.

MR. SPRIZZO: I don't know which charges of the Government you are going to give, but should I go over what

my objections are to the Goverment's charges?

THE COURT: I am not going to -- I will give the substance of most of the Government's charges, and in some cases I am taking them from your proposed charges because there is considered parallelism between both sets of charges.

MR. SPRIZZO: I assume you are going to modify the Government's request No. 1 to eliminate the obstruction or intimidation of Elizabeth Hernandez, which has now been dismissed.

MR. KINGHAM: The last sentence, your Honor.

THE COURT: Yes.

MR. KINGHAM: Also, your Honor, these requests would have to be amended to reflect the count numbers of the redacted indictment.

THE COURT: Have you renumbered the counts?

MR. KINGHAM: I have. I have given the original and a copy to your court clerk.

THE COURT: I have it here. I didn't know whether or not you had renumbered the counts.

MR. KINGHAM: I don't want the jury to get the impression that --

THE COURT: All right.

MR. SPRIZZO: With respect to request No. 2,

we strongly object to this long dissertation on Immigration policy.

It is a fairly simple case, a fraud case, and all this material on Immigration procedures, some of it has not been established by the evidence, and most of it we think is totally irrelevant to the issues and is unduly prejudicial.

THE COURT: All of it is legal and not evidentiary.

MR. SPRIZZO: It has no real value except to prejudice these defendants to give them a long dissertation on Immigration law which can only be prejudicial, and we except to it.

MR. KINGHAM: I think the jury is entitled to a legal definition of the nature of the procedure and of the Immigration laws. This is taken out of the statute and the regulations.

MR. SPRIZZO: All the jury need be told in this case is that these people got married to obtain permanent residence. If their marriages were sham, they were not entitled to permanent residence, period.

There is no need to go through a lecture on the Immigration law. We object to it.

THE COURT: I have redacted it slightly.

I have left out certain parts that I did not think related to the evidence here.

MR. SPRIZZO: No. 4 we have no problem with. You are giving our charge on conspiracy so I guess we can skip that.

THE COURT: Yes.

MR. SPRIZZO: Your Honor has taken care of the problem I had with respect to request No. 6 where they talk about withholding --

THE COURT: Yes, I abstain to that.

MR. SPRIZZO: Your Honor has taken care of my problem with respect to request No. 8 because you have modified the charge on participation, which the Government gave, which we thought was incorrect.

MR. CONCANNON: On No. 5, on page 2 of the Government's request, your Honor, in the second paragraph, the first sentence, it is not required that you find --

THE COURT: Wait a minute.

MR. KINGHAM: This is on conspiracy, your Honor, definition of a conspiracy.

THE COURT: The Government's request 5?

MR. CONCANNON: Yes.

THE COURT: I may not be giving it.

MR. SPRIZZO: I thought your Honor said you

were giving our charge on conspiracy.

THE COURT: I am not giving that.

MR. KINGHAM: There is a line missing, Mr. Concannon. It might be a typo.

MR. CONCANNON: All right.

(Continued on next page.)

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MR. SPRIZZO: There is one thing which we do think is important, even though we have submitted contrary charges to the government on the question of recklessness, there is one point we think we ought to make.

We really don't think upon reflection, and we discussed this last night at great length, that any recklessness charge in this case is really appropriate for the simple reason that it is not really raised by the evidence. I think the government's evidence in this case is, from its witnesses, that Mr. Chu was cold, basically, that these marriages were sham and that Mr. Chu told them to lie before the Immigration and Naturalization Service.

If the government's evidence is believed, then obviously Mr. Chu had actual knowledge and obviously Mr. Chu obviously intended to defraud. If the government's evidence is not believed then Mr. Chu has to be acquitted.

This is not a case in which the recklessness charge is appropriate because the facts of the case simply don't support the charge. This is not a situation where any claim can be made on the evidence presented before this jury that Mr. Chu should be convicted

on some theory of reckless disregard because the government's proof, and the only proof we have from the government witnesses, shows knowledge, and that testimony, if believed, we just don't think the reckless charge is raised by the evidence, and in that connection I would cite your Honor to the Sansone case, which admittedly is a different situation because it was dealing with a question of lesser included offenses, but there the government charged a conspiracy to evade taxes by filing a false return and also charged a misdemeanor of filing a false return.

The defendant claimed he was entitled to a lesser included offense charge on the misdemeanor count and the Supreme Court says you were not entitled to a lesser included offense charge because the government charged you evaded taxes by filing a false statement.

If the jury believes that testimony then you are guilty of both offenses. If the jury disbelieved that testimony you were guilty of no offense and therefore the lesser included charge is not raised by the evidence.

The evidence in this case is very clear from every government witness who testified that Mr. Chu had actual knowledge, if they are believed, so that the

question of knowledge here can be resolved on the simple credibility question of who do you believe, do you believe the government witnesses or Mr. Chu?

There is no need for a recklessness charge on these facts, and we think that giving a reckless disregard charge or a knowledge of high degree of falsity charge, which may be appropriate in an accounting case, would be grossly prejudicial and unwarranted by the evidence in this case and we think none should be given.

MR. KINGHAM: First of all the jury can believe part of the government's witnesses' testimony and part of Mr. Chu's testimony and come to the conclusion that -- they have the option, your Honor, to believe part of one and part of the other.

The Jacobs case, Serantose, those are cases like this one, people come to a lawyer's office under certain circumstances, which if he doesn't have actual knowledge, ought to give him sufficient suspicion so that if he acts thereafter he's going to be in reckless disregard of the truth, and this is a perfect case for a reckless disregard instruction particularly when the defendant himself has testified, and the jury has the option of accepting or rejecting portions of any

witness' testimony.

MR. SPRIZZO: I disagree very strongly with that because I don't know what the factual record was in Serranto, and I don't know if the point was raised, but this is a situation where the government witnesses say,"We told Mr. Chu this marriage was phony, we told him we want a divorce, we had no sexual relations."

If that testimony is believed there is no question of knowledge here. If that testimony is disbelieved then Mr. Chu can't be convicted on this record.

Now, there isn't any question here of whether he was being negligent or careless, and we admit, we submitted a charge in response to that, this case does not raise those issues. This case should really be put tothe jury in the simplest of terms, if you believe the government's testimony you convict, you may convict, and if you believe the defendant's testimony you must acquit.

MR. KINGHAM: Serrantose is the hallmark case in this circuit on reckless disregard. Serrantose is a case virtually on all fours with this.

MR. SPRIZZO: Was the issue rais-d?

MR. KINGHAM: Not only was it raised, but

discussed and decided by the Court of Appeals.

MR. SPRIZZO: Was the issue raised as to whether or not the charge was appropriate on that evidence?

MR. KINGHAM: Yes. It is the nature of the charge.

MR. SPRIZZO: The question is whether counsel belowraised the question of whether a reckless charge is appropriate? We are raising that issue here.

THE COURT: I am inclined to think that this is a case where reckless disregard might be an issue. If the jury believes the defendant Chu in his statement that he didn't have actual knowledge, and at the same time believes testimony of some of the witnesses that the circumstances are such that any reasonable person would have been put on notice, they could conclude from the evidence that Mr. Chu had deliberately closed his eyes to facts which should have put him on notice, and I am going to leave in the charge with respect to recklessness.

MR. KINGHAM: I will assume the risk on that, too, your Honor.

MR. SPRIZZO: Judge, with respect to the rest of the government's request to charge, since your

bsr6

Honor has indicated you are going to amalgamate charges, maybe it will save time if we wait until after your Honor has given the charge.

THE COURT: I think so. You can have access to it. If I had extra copies I'd give you all a copy of what the charge will be so you can work on it over the noon hour, but I only have one copy.

It is too bad I didn't get the proposed charges earlier and we could have done this in a more workmanlike way.

MR. FLEMING: I just have -- I hate to double talk like this, your Honor, but the government's request No. 24, we submitted an identical request, except we had a paragraph that that doesn't mean the defendant can't be telling the truth, and we believe that charge is essential. It is a charge Judge Gagliardi gave in the Mitchell case, and we think it is required.

MR. KINGHAM: I have no objection to adding that paragraph.

THE COURT: I think I have added it, as a matter of fact. Let me see.

MR. FLEMING: It will be our request No. 15. Our request 15 as opposed to their request 24, your Honor, on that subject matter. I don't have any objection to

their request 24 except I think that our second paragraph should be included.

THE COURT: All right. The government has no objection so it will be included.

MR. KINGHAM: I have no objection.

MR.CONCANNON: Your Honor, I would like for the record to join inthe requests to charge submitted by co-counsel, and make apology as well for submitting this short request at this late hour and in that handwritten form. It concerns the receipt of gratuities by Jean Fong for arranging the marriages. It is not an issue in this case, and I'd like that to be clear to the jury.

THE COURT: All right. I will give that proposed charge.

MR. BARRY: Your Honor, I also join --

MR. KINGHAM: I haven't seen it. I generally trust Mr. Concannon on most matters, but I better look at this.

MR. BARRY: Your Honor, I have no doubt that you will charge that the defendant's failure to take the stand or failure to testify can't be held against him. That will be in your charge, will it not, your Honor?

THE COURT: Yes, it will. I have given

severl of your proposed charges, let me say.

MR. BARRY: Thank you, your Honor.

THE COURT: I think I have given all of them except where they were already included in some of the other charges submitted.

MR.KINGHAM: The use ofthe term"moral certainty,"your Honor, which as I pointed out in my opposition to voir dire requests is held in disfavor in this circuit and should not be given in the reasonable doubt instruction. The use of the term "moral certainty," I submit, is confusing and shouldn't be used.

THE COURT: I'm not giving that.

MR. KINGHAM: Mr. Fleming or Mr. Sprizzo have been kind enough to supply me with Defendant's Exhibit LC for identification which reflects Mr. LaRocca's report of May 5, 1976, and I as a prosecutor would take this as an offer of proof, and I presume Mr. LaRocca is to testify as to statements that the witness made during this interview which are inconsistent with her testimony at trial.

One of these questions here is "Did Chu or anyone else tell you you could get a divorce before you got married? Refused to answer." And "Did the Immigration

and Naturalization Service tell you to say you didn't have sex with your husband? Refused to ansewr. Did anyone from Immigration and Naturalization Service make promises or threaten you with your arrest if you didn't cooperate? Refused to answer."

The fact that a witness is under no obligation to respond to quetions from an investigator, your Honor, should be known, and it seems to me that by showing that the witness refused to answer is, first of all, not inconsistent with her testimony, shewas not asked, did you not refuse to answer when Mr. LaRocca asked you certain questions, I don't recall any testimony like that.

She might have been asked did she use her married name and she said no, that is inconsistent, but the fact that she refused to answer it seems to me is irrelevant and highly prejudicial in these circumstances.

MR. SPRIZZO: I think Mr. Kingham is probably correct on that, and I think we will withdraw the offer of proof as to the refusal to answer.

THE COURT: Thank you.

MR. KINGHAM: Thank you, your Honor.

I have no objection to the other questions, your Honor.

THE COURT: All right. Are we finally ready for the jury?

MR. KINGHAM: I think we are, your Honor. Thank you for bearing with us.

MR. CONCANNON: Your Honor, for your information, the defendant Fong hadn't been putting on a case.

THE COURT: Thank you.

Incidentally, Mr. Kingham, in your proposed charges you didn't have me reading count 1. Do you want me to read count 1?

MR. KINGHAM: I would, your Honor, but I submit this indictment should be sent to the jury room because you don't have to read all the overt acts, because there are now 29 instead of 33, and it would seem to me unduly lengthy for the Court to read the overt acts, and the Court can send the indictment into the jury room.

(Jury present)

THE COURT: Good morning. I am very sorry we kept you waiting. We have some complex legal matters to straighten out. We are ready to go ahead

now with a continuation of the defendant Chu's case.

MR. SPRIZZO: The defense calls Mr. Matthew LaRocca.

(Continued on next page)

A N T H O N Y L A R O C C A , called as a witness by defendant Chu, being first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. SPRIZZO:

Q Mr. LaRocca, what is your present employment?

A I am employed as an investigator for the Owl Security Services, Inc.

Q What is the Owl Securities Services?

A It is a private detective agency.

Q How long have you been connected with the Owl Securities --

A Six months.

Q Prior to that time, what was your employment?

A I am self employed as an insurance and real estate broker inthe Town of Yorktown Heights, New York.

Q You were at one time employed by the New York City Police Department?

A That's correct.

Q In what capacity?

A As a first-grade detective from the years 1949 to 1970.

Q You left in 1970?

A In August, 1970 I retired.

Q You were retained by myself and Mr. Fleming to conduct certain interviews in connection with this matter which is presently pending, is that correct?

A That's correct.

Q As part of your duties were you instructed to interview a person by the name of Carmen Miranda?

A Yes, sir.

Q When did you interview her the first time?

A April 12, 1976, at about 4:45p.m.

Q Did you identify yourself to her?

A Yes, sir.

Q She agreed to be interviewed?

A Yes.

Q During the course of that interview, did you ask Miss Miranda any questions concerning where she lived when she got married?

A Yes, I did.

Q What did she tell you?

A She said she was living at 959 East 108th Street, Apt. BB, Brooklyn.

Q Did she indicate how long she lived there?

A She said she had been there for a year or so and that she had lived there with her husband for about three or four weeks after the wedding, and then her

husband left and went to North Carolina.

Q Did you ask her any questions about conversation she had with Mr. Chu in connection with interviews to be conducted at the Immigration and Naturalization SErvice?

A Yes, I did.

Q What did she tell you?

A She told me that previous to the interviews that she would go to Mr. Chu's office and he would ask her various questions as to the layout of her apartment, the color of the walls, the color of the bathrooms, and various other questions regarding the layout of her apartment.

I asked her at any time did he ever tell you to lie to the authorities, and she said no, but that he did prepare her for the hearings.

Q Did you subsequently interview Miss Miranda again?

A Yes.

Q When was that?

A That was on May 4, 1976, at 11 a.m.

Q Did you ask her this specific question on that second interview: Did Gene Chu ever tell you you didn't have to have sex with your husband?

A Yes, I did.

Q What was her answer?

A "No."

MR. SPRIZZO: I have no further questions.

CROSS-EXAMINATION

BY MR. KINGHAM:

Q Mr. LaRocca, my name is Kingham. I am the prosecutor in this case.

You were a police officer of first-grade detective for approximately 21 years, is that correct, sir?

A That's correct.

Q You retired in 1970?

A That's correct.

Q During the course of your duties as a member of the New York City Police Department, did you have occasion to interrogate witnesses and suspects over those 21 years?

A Yes, sir.

Q Would you consider yourself fairly adept at doing that?

A Yes, sir.

Q When you went to see Miss Miranda -- when was the first date?

A April 12.

Q The second time was sometime in May, is that right?

A May 4.

Q When you went to see her on those occasions, were you alone or was someone with you?

A On the first occasion I was with someone.

Q Who was that?

A Herman Schwab, who is also an investigator for Owl Security Service.

Q The second time you went alone?

A The second time was on the telephone.

Q How many times did you speak with Miss Miranda?

A Twice.

Q Just the one meeting and the second telephone call, is that correct?

A Yes.

Q You testified on direct examination, did you not, that at the April 12, 1976 interview, that was the personal interview, is that right?

A Yes.

Q Did you not testify on direct examination that you asked her "At any time did Mr. Chu ever tell you to lie to the authorities," was that your testimony?

A Yes.

Q Did you, Mr. LaRocca, at any time say to her in these words, ask a similar question in these words, "Mr. Chu didn't tell you to lie to the authorities, did he"?

A No. I believe I said "Did Mr. Chu ever tell you to lie to the authorities."

Q You believe you said that?

A I know I said that.

MR. KINGHAM: No further questions.

THE COURT: Any other cross-examination?

REDIRECT EXAMINATION

BY MR. SPRIZZO:

Q One question. I don't know if I got this out on direct examination. Did she indicate what address in Brooklyn she was living at?

MR. KINGHAM: Objection, your Honor. Asked and answered.

MR. SPRIZZO: I wasn't sure I had asked it.

THE COURT: Thank you.

(Witness excused)

MR. FLEMING: Your Honor, Mr. Chu rests.

MR. CONCANNON: Your Honor, Jean Fong rests.

MR. BARRY: Your Honor, Jimmy Yu rests.

MR. KINGHAM: Your Honor, the government has no rebuttal case and rests on the entire case.

THE COURT: We have now come to the end of all of the evidence in the case, and we are at that point in the case where the attorneys will make their closing arguments or summations.

I want to instruct you again that these closing arguments are not evidence in the case in and of themselves, they are merely an indication by counsel of what they think the evidence has or has not shown. You will be the ones who will determine the facts in the case and you will make that determination of facts based upon your recollection of the evidence.

As I have also told you, if when you come to deliberate your verdict you can't remember the evidence or you have varying recollections about what the evidence was, any part of the evidence can be read to you from the notes of the reporter.

The government will make its closing argument first.

(At the side bar.)

MR. FLEMING: Your Honor, we repeat all the motions we made for entry of judgment of acquittal at the

close of the prosecution's case. We would like to add the additional motion based upon what we argued to you this morning, your Honor, and that is that the government -- the substantive counts charging violations of 1001 should be dismissed as they are brought under the wrong statute, that they should be brought under the specific statute, Section 1546, Title 18, which governs immigration matters and which requires an oath and matcriality.

THE COURT: That motion is somewhat untimely, your Honor.

MR. FLEMING: A motion to dismiss is never untimely, your Honor.

MR. KINGHAM: I will assume the risk on that one too, your Honor.

MR. CONCANNON: The defendant Fong renews motions made after the governments' case.

MR. BARRY: The defendant Jimmy Yu renews the motion made.

THE COURT: All of the motions are denied.

MR. FLEMING: Adding one thing, the additional reason we asked to dismiss the false statement counts, we say they should be brought under Title 18, Section 1546, they were not. Title 18, Section 1546 requires that the statement be made under oath. On the

government's claim, these statements were not made under oath and therefore they didn't meet their burden under 1546.

MR. KINGHAM: That's why it is not charged.

(In open court)

MR. KINGHAM: May it please the Court, Judge Conner, colleagues at the defense table, Mr. Hittelman, members of the jury:

As you know, because we have been together for the last coupld of weeks, this is a case in which the govermment has proved to you thatGene Loy Chu, a Chinese-American lawyer with a practice in Chinatown, betrayed his oath as an attorney, thathe didn't uphold the law, that he filed false documents, that he helped his client make up lies and give false statements to the immigration service, and that he with his clients, the people who testified here, and with his confederates and co-conspirators and now co-defendants, Jean Fong and Jimmy Yu, attempted to defraud the United States, tried to make the Immigration and Naturalization Service believe that these couples had entered into what we will call a bona fide marriage, that they intended to live together as husband and wife, when he knew all along and when Jean Fong knew and when Jimmy Yu knew that they had no

such intention; and that the only reason that they had been married was to get a green card for the young Chinese men; and that the only reason that they had gotten married was to get around the immigration laws.

Make no mistake, ladies and gentlemen, after you have heard all of the summations and you have thought about the evidence and you place the evidence next to the law as Judge Conner will instruct you, you will know that that is a crime charged in the indictment and that these three defendants are guilty.

In my opening statement, if you recall, I suggested to you some things that this case was not about. First of all, it is not just about getting married for money, becasue anybody can get married for money, and it is not just about getting married at City Hall and entering into what under New York State law would be a valid marriage, because the people say the right words and the documents that you have seen get stamped.

It is not about getting married, as Lisa Hernandez did, over at the True Light Lutheran Church, because anybody can do that too.

But it is about arranging marriages for the sole purpose of defrauding the United States into

believing that these spouses were going to be spouses, were going to be husband and wife, and were going to live together as husband and wife.

(Continued on next page)

Marriage is many things to many people, and certainly no one in this case pretends to dictate to the jury or to anyone else what marriage is. But, a marriage, as you will hear, which is entered into solely to obtain Immigration benefits, with no intention on the part of the spouses to live together as husband and wife and assume the duties and obligations of being husband and wife, is not a bona fide or good faith marriage, and, as you have heard from the the evidence, the marriages in this case were not good faith marriages. They were marriages for appearance, marriages on paper, marriages for the landlord's sake, marriages for Immigration's sake, marriages to defraud.

Of course, the question here is whether these defendants knew about that. Did Gene the lawyer know it? Did Jeannie Fong know it? Did Jimmie Yu know it? They knew it.

They arranged the marriages. Gene Chu filed the documents, Gene Chu took them to the interviews, Gene Chu knew they lied, Gene Chu helped them to lie, for one purpose, to get the green card.

I am going to speak to you in this part of my summation about the facts. After I finish speaking to you, each of the defendant's lawyer will have an oppor-

hs2

tunity to give his summation, and then I will have a chance for a brief rebuttal to answer some of the arguments which they might have made. When I talk to you about the facts, ladies and gentlemen, I am not going to talk to you about what might have happened, what could have happened or some fantasy or some fairytale or some pretend, as Gene Chu told Brian Yeung to do when he could not lie.

I am going to talk to you about the proven facts here, because the Government has only one interest in this criminal trial, and that is bringing the facts to the jury and insuring a fair trial. When you put those facts in relation to the law and you think about the evidence with your common sense and your intelligence, you are going to convict these defendants.

Let us talk about the evidence. The first marriage we have is Frances Torres and Tommy Hu. They got married at City Hall on July 19, 1973. Frances was introduced to Mom, to Jean Fong, by Alice Aviles, her roommate. There Jean Fong talked to Frances about getting married for money, not about getting married to get an apartment or to get away from Alice or get a husband, but about getting married to make $3500.

The next day or so she took Frances to see Gene the lawyer in his office at 9 Division Street.

He told Frances she would get $3500 for marrying an alien. He said, "Don't worry about sex, don't worry about that, you won't have to sleep with him."

As you heard Frances testify, she wouldn't want to because, as she said, she was gay. "But you do," said Mr. Chu, "have to live with him to make it look real. But, don't worry, you can get divorced after a year or so when the man gets his green card."

So said Gene Chu to Frances Torres. He took her birth certificate, set up another time when she could meet her husband. They did. They met in the lawyer's office. They didn't meet in Saleno's restaurant, as they later lied, they didn't meet at Jimmie Yu's restaurant or Jeannie Fong's apartment. They met in the lawyer's office.

What did they discuss there? They discussed how Frances was going to be paid. Who was there? Jean Fong and Gene the lawyer. They got blood tests and registered to be married and were married.

Who took them for the blood tests? Jean Fong took them for the blood tests and the registration, helped them fill out the forms. They got married nine days later.

Who is at the wedding? Jean Fong, Tommy's

hs4

uncle, Mr. John Fung. The interesting thing here, Jean Fong says at the time of the wedding, "I have already signed some of these marriage licenses so I better sign this one."

Tommy's uncle signs it. You look for it, you can have it in the jury room, it is an exhibit in evidence, it says, "In the presence of John Fung, 1290 Grand Concourse, Bronx, New York."

If you look for it on the evidence, this document is there.

What is she trying to hide if it is on the up and up? What do they do after the wedding? Go back to the house and have a celebration with friends and neighbors? No.

They go to Gene the lawyer's office. What happens at Gene the lawyer's office? $1200 to Frances, $300 short but cash is cash. She takes $1200. She gives $200 to Jean Fong.

Do you think that Gene Chu is going to admit under oath that he saw Jean Fong get money in his office, a woman he has known for many, many years? Hardly.

Now, what does Frances do? She signs the I-130. Let's look at the I-130 here. You can have this in the jury room, Government's Exhibit 9-B. The defendant lied on this.

He said it was sworn before him on July 23, 1973. But, you know from Frances' testimony and his own admission that this was signed on the day of the wedding in blank. How can Frances know the contents of the petition are true when she doesn't even know what she is signing and the lawyer has her sign it in blank and notarizes it at a later time? What's the address on here? Were these spouses, 728 East 187th Street, New York, New York. That is an address where they are supposed to be living, where they are going to live as husband and wife.

According to the representation Gene Chu has made on this form, this is where they had been living from the date of their wedding up until July 23, 1973. But, you know that is not true because Frances never lived there. She went up there from time to time to check the place out, see what it looked like.

Gene Chu told her to use her key in the lock so it would look more used. Why should the defendant notarize these and postdate the notary? Is this merely because he is overworked, doesn't have a secretary? Is it really because he is careless?

You saw and heard Mr. Chu. Does he look like a careless man to you? Does he look like he

knows exactly what he is doing and calculated exactly what he was doing? Can you imagine that he did not know that if he were typing this later he could have typed in the date that it actually had been signed and then it would have been true? But, it wasn't, because he defrauded the Immigration Service and he is telling the Immigration Service in effect "These people were not in my office the day they got married, they were there a few days later."

Obviously if he tells them they were in the office the day they got married, it is going to look fishy. What are these people doing going over there the same day? Of course, he gets wise later on, notarizes the Lisa Hernandez one for the same day. I will talk about that in a minute.

Where is Frances living at this time? She is living with Tracy. She is not living with her husband Tommy, she is living with Tracy. Until Tracy gets married, they are living at 2185 Valentine Avenue. The defendant knows that because all these girls have given him that address.

He sits on the stand yesterday and he tells you, "I just don't remember the address, it is up in the Bronx. I don't recall what address."

Can you imagine that that is the truth? How

many of these girls lived up there? How many of them testified that they lived at 2185 Valentine Avenue? Is he totally ignorant of that?

He also knew that Frances was living with Tracy because they used to come to his office together. As you heard Frances and Tracy testify, they would complain about not being able to get money from their husbands or not being able to find their husbands. He says they just came a couple of times, dropped in to say hello. Do you believe that?

Of course, there came a time for the interview. Frances and Tommy come down to Immigration for the I-130 interview. What does Gene Chu do? "Make up a story about how you met because you cannot tell them that you met in my office." They make up a story and say they met in Saleno's apartment or through a friend of Saleno's or Tommy's uncle. A bunch of nonsense. The defendant knew that.

Can you imagine that he did not prepare these people for the question "How did you meet"? Isn't it obvious that that has got to be one of the key questions that Immigration is going to ask when they are trying to find out if this is a good marriage? Isn't it also obvious that Mr. Chu isn't going to let them say to

Immigration "They met in my office."

Isn't it funny that all of these people just happened to make up stories about how they met? Isn't it also true that that is what happened? What happens at the interview on January 30, 1974?

You recall Mary Griffith testifying, you saw her notes, they are in evidence, you can have those in the jury room, Mary Griffith says, "They told the following story and they agreed on it and they told how they met in Saleno's apartment. I interviewed one and then the other."

Mr. Chu sat there while the first one lied and he knew they were going to lie because he knew the story, and he sat there when the second one lied.

Obviously no one would expect Mr. Chu to jump in the middle of the interview and say to the Immigration officer, "My client lied," because he is a lawyer. We do not claim he should have done that. What does he do after the interview when he knows his clients have lied? Does he tell them to withdraw the petition? Does he tell them never to answer any more questions? "You lied, I don't want to have anything more to do with you." He does not do that at all.

He waits. See what happens, see how the

petition works out. Lies, and he knew they were lies.

At that time Frances lived in Brooklyn too. She lived there with Tracy and Gene Chu knew it, because, as I said, they used to come to his office together. But there is no further Immigration problem with Tommy and Frances until the notice came. The notice was Government's Exhibit 10 in evidence, and this notice, which is in evidence, tells Gene Chu and these other people that they have got to come back to see an Immigration investigator on February 13, 1975. Not just the I-130 interviewer, but an investigator on the 13th floor, which means you are in trouble.

(Continued on next page.)

What happens after that notice goes out? The couple misses the appointment. Remember the letter from Tommy to Frances, "Better get some things up, make it look like we are living together"?

Where does he send the letter to Frances? 187th Street? No, Brooklyn. That's where Frances was living. "Get a hold of a lawyer and see if he can help you." These people are co-conspirators, they are in it together, they are trying to cover up, they are trying to make Immigration believe they are living together. Gene Chu knows it and is part of it.

Then they go to the lawyer. They miss the interview so they go to the lawyer. He is unhappy, says Frances, unhappy because there is trouble and we have to see an investigator -- don't forget, this is February of '75 and all of this is starting bubble up -- so what does he do, he says, "Get divorced." He doesn't say, "Go to the interview and just tell the truth." He says, "You better get divorced."

Does he suggest divorce because he just found out that this is a lie, that it is a sham marriage? Or does he suggest divorce because he is afraid that if these people are interviewed again they are going to give him up?

Let's look at what is one of the really most interesting situations here, and that is when Mildred and Tracy, her sister, Carmen, play switchy with poor Michael Fan.

Mr. Fan wanted to get married desperately. Time was running out. He needed a green card. He had a lawyer for his political asylum petition, for his other Immigration matters, but when he needs a lawyer to arrange a marriage, he goes to Gene Chu.

When he goes to Mr. Chu's office he is told he has to pay $3500 for the girl, a thousand dollars for Gene Chu, and he does that. 1500 of that money eventually goes to Mildred Miranda. Mr. Chu had to hold the $1500 in cash all right, just in case the first girl didn't work out there would be another girl, and so you don't deliver the cash until the time of the wedding, and that is exactly what happened in this case, because, as you will recall, Michael Fan went up to the office and there he saw Jean Fong and Frances and Tracy, and he was introduced to Tracy as the woman he was going to marry.

When they went inside Tracy was told, as she had been earlier by Gene Chu, "You get $3500, Tracy, 1500 when you get married and the rest, depending on how you work it out, how much Michael can afford and when he can

give it to you."

Everything is fine, but Tracy does not have a birth certificate. Of course you need a birth certificate to prove your age to get married. You need a birth certificate to prove your age and where you were born for Immigration purposes, so none of this works unless Tracy has a birth certificate. Mr. Chu, of course, does not remember any of this.

So they go out and they have blood tests, Michael and Tracy, and Jean Fong sets it up, but a little time goes by and Mr. Fan gets a little more desperate and Tracy's birth certificate has not come from Puerto Rico. He says, "What do I do?" Jean Fong and Gene the lawyer set up the switch, "You marry Mildred."

Of course, Mr. Chu does not remember any of this. He says he does not recall meeting Tracy beforehand -- he must have answered "I don't recall" 15 times as to questions that relate to the switch game.

Of course, Mr. Chu can't recall and he can't tell you that he knew there was a switch because if he tells you that he knew there was a switch he obviously knew that these were marriages only for the purpose of getting green cards, and it didn't matter to Michael Fan who he married as long as she was a citizen and he could get a

green card.

So if he admits that to you on the witness stand he virtually admits that he is guilty of these crimes. So he is not going to recall and he is not going to remember.

MR. FLEMING: I object to that last statement, your Honor.

THE COURT: I didn't hear it.

MR. FLEMING: Virtually admitting his guilt. He would have admitted his guilt if he said something.

THE COURT: The jury will disregard the statement about admission of guilt.

MR. KINGHAM: I object, your Honor, and I think it is entirely proper in the summation.

THE COURT: I think it is unnecessary, that is why I sided with the other side.

I don't mean to comment or suggest that the statement is improper. I just think it is unnecessary.

MR. KINGHAM: Thank you, your Honor.

Where does Fan meet his wife? They met at Jean Fong's apartment. Of course Mildred has discussed this with Gene Chu before, hasn't she? Gene Chu knows there is going to be a switch because she calls Tracy from Gene Chu's office and asks Tracy if it is all right, does

Tracy mind if she switches, and she says no, go ahead, and she tells Gene Chu that, but he doesn't recall.

It must have seemed rather odd to Gene Chu, if he does not recall that, when Mildred shows up with Mr. Fan instead of Tracy, if these were to be real bona fide husbands and wives living together for any reason other thn getting a green card for the man and getting money for the woman.

What happens in the office after Mildred and Michael Fan get married? Who are the witnesses, by the way, at the Mildred Miranda-Michael Fan marriage? Jeannie Fong, pregnant Imgard. You saw the pictures.

What does Jean Fong put down on the license application, on the marriage license here? She puts down Jean Fong? No, Mary A. Fong, 169 Allen Street, New York City, her address, Mary Fong.

Did you hear anybody refer to her in the case as Mary Fong?

Where did they go after the wedding? Grabbed something quick to eat, Gene the lawyer's office. Gene gives $1500, the escrow account, gives the $1500 to Mildred -- it's Michael's money, he's been holding it for a while, you know he has been holding it since the time Michael met Tracy, but this time he gives it to Mildred.

There is a discussion then, and they talk about Puerto Rico. It must have seemed a little funny that this loving couple, this couple who are going to live together as husband and wife, the wife goes off to Puerto Rico with her brother with the $1500 she has just been paid, and the husband stays home. Sharing this wonderful relationship, and off goes the wife with her money, the husband goes to work.

Then the I-130 is signed. That is an interesting one, too, that is another one that says it was sworn to before him on August 8, 1973. Of course that day Mildred was in Puerto Rico, she wasn't in his office, and again isn't he trying to make it look as though this couple was not in his office on the day they got married but they were in his office discussing this and signing this a couple of days later? What is the address on there? he said they resided together at 2185 Valentine Avenue. There it is again. He has heard that address before. He has talked to Mildred before. He met her when she came in with Jeannette, the friend who had the husband die out in Brooklyn. He heard it from Mildred and Tracy. He got that address when she first met Gene Chu, yet, Mr. Fan, who had switched wives, is going to live with Mildred at 2185 Valentine Avenue.

You heard Mr. Fan testify that he tried to get Mildred to let him stay there but she wouldn't, she wouldn't let him, she wouldn't let him stay there, and he told Gene Chu that she wouldn't. All he would say is, "You have to live there. You have to get in. You have to stay there."

Why? Obviously, in case Immigration comes around, it doesn't look too good if Mildred is living with Raoul when she is supposed to be living with Michael Fan, who can't get in the apartment.

Mr. Chu knew they weren't living together. Didn't Raoul come around with Mildred to help practice for the Immigration interviews? Of course, the defendant denies -- Mr. Chu denies meeting Raoul until after the Immigration, until after he discovered -- the light went on -- this was a lie.

Do you think he would dare admit to you that he knew Raoul beforehand, that he knew they were not living together, that he knew that Mildred and Raoul lived together? Not on your life.

On the day of the interview does this couple come in together to Mr. Chu's office to go over to Immigration? No, they come separately. There he again coaches them, he tells them, "Remember, look like you are

married." If he knows these people are married and living together, why does he say, "Hold hands. Put her coat on. Sit next to her"? Coaching people how to look married, to make it look like they were really married.

Then they went to the interview and they gave a look of statements, and the statements obviously were calculated to show that they were living together. Mr. Chu knew the purpose of the interview. He knew that they were giving statements to make it look like they were living together and he knew that the statements were lies because he had coached them on how to make it look like they were living together; in fact, he coached them in the presence of Raoul -- Raoul was the guy who was living there, he knew what the apartment was like.

Mr. Chu testified either yesterday or the afternoon before that it was only after the interview that he had the revelation, and he told them for the first time that he did not believe that they were really married. You remember Mr. Fan, Wun Chiu Fan, Michael Fan, he was asked by Mr. Fleming, "Did Mr. Chu say that? Did Mr. Chu say, 'I don't believe in your marriage'"? And at page 141 of the transcript in this case Mr. Fan replied, he replied that he didn't say.

Mr. Fleming asked Mr. Fan, "Did Mr. Chu say you had to be serious about living with the woman you married?"

Mr. Fan said that Mr. Chu didn't say that either.

Can there be any question that Gene Chu arranged that marriage with the help of Jeannie Fong, that the marriage was for money for the girl and a green card for the man and that's all?

Can there be any question that he knew when he filed that I-130 that those people were not going to live together at 187th Street -- rather, at 2185? He knew that all the girls were living there, but he had to convince Immigration that these people lived together.

If they are not living together, the only way to convince Immigration is to have them lie, you see.

Jimmie Yu enters the scene. On July 27, 1973 John Jout arrives here to visit his sister. He went to visit his boyhood friend, Jimmie Yu, who lived in Jackson Heights, and he said, in essence, "I'd like to stay here a little longer. Can you help me?"

Jimmie Yu says he knows just the thing, "Let's go down and talk to Mr. Chu."

You heard Mr. Chu testify that Jimmie Yu had

brought over people in connection with marriage, somebody named Rodriguez, a Chinese man named Ho.

You heard that Mr. Yu also brought in Perry Chang. They set up the Lisa Hernandez-Perry Chang marriage.

So is Mr. Yu going to Gene Chu out of the blue just because he is the old family retainer, or is he going to him because he knows he can trust Gene Chu and because Gene Chu arranges sham marriages?

So he takes Mr. Jout and Yar Lee Fu, Mr. Jout's older sister, to see him.

Even before that, we know from the chronology, or you know, that Tracy, who gets introduced to John Jout, had been there before because she was going to marry Michael Fan, but that didn't work out.

Ironically, it is August 6, 1973, the same day that Mildred and Fan get married, that Mr. Jout and his sister come to the office to find out how he can stay in this country.

What is he told? He is told, "Forget about the other ways. Forget about tourist, student, Technician, investor; any of those other ways. You got to marry an American girl, but it will cost you. It will cost you $3500 for the girl and $1500 for my fee."

Can you imagine, ladies and gentlemen, a $1500 legal fee to file a document and go to an interview?

Obviously, with a fee like that, Mr. Jout would be paying a premium for a risk that Mr. Chu was taking, and that is exactly what happened. Mr. Chu said, "For you, a friend of Jimmie Yu, I'll knock down my fee to a thousand dollars." What a bargain.

(Continued on next page.)

Let me talk a minute about the fees, because Mr. Chu says he only got $375 for each of these cases. Obviously he can't say he got $1000 a marriage it would seem ridiculous. Unless he's guilty and he was taking a risk for the $1000.

You heard the testimony about his income from the law practice in 1973, a little more than $10,000; you heard him testify from the witness stand that he worked on about eight marriage cases in 1973, and so if it was $1000 apiece it would be 80 per cent of his income from sham marriages.

So he can't admit it's $1000. You would think he was guilty if he did that. When he says $375, he says I noted it on the file folder. Do you see those file folders anyplace in this courtroom? Were those file folders admitted into evidence as the record he kept of how much he received and when he received it? You better believe that if they existed, or if they said 375 instead of 1000, that you would have seen them in this courtroom. But you don't. I submit Mr. Chu is lying about how much he got.

Let's forget about the money for a minute and go back to the scene in the office, because Mr. Jout's sister is concerned that he won't be able to get out of

this marriage after he gets his green card and she says how about the divorce, and Mr. Chu says don't worry about it, trust me, I'll get the girl to sign the papers and at the time of the wedding everything will be fine.

So they trust Mr. Chu. He doesn't get Tracy to sign the papers and two years later we have a hassle trying to get Tracy to agree to a divorce.

Chu also said that the girl I'm going to introduce you to doesn't like men, don't worry about sexual relations with her. She's in love with her own sex.

Are these to be marriages between people who intend to live together as husband and wife? The wife to make a home forthe husband, the husband to take on the obligations of support for the wife, or are they marriages just for the sake of appearance?

So Mr. Jout went out and borrowed what he could from his sisters, took some of his own money, comes back and gives it to Mr. Chu, $200 in cash, 1500 for the girl, 500 the first installment on Mr. Chu's fee, and he's introduced to Tracy.

Who is there? Naturally, Joan Fong; she brought Tracy to Chu in the first place.

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A quick call to the doctor from Mr. Chu for the blood tests. Everything is all set up. On August 14, 1975 they go to City Hall to complete the application. Who goes? Mr. Jout, Tracy, Jean Fong, Jimmy Yu.

Jimmy Yu puts in his address on the form. You recall the testimony, he filled the form in. He puts in his address as where the couple will live in Jackson Heights.

On August 17, no more than ten days after they met, love at first sight? Tracy and Mr. Jout are married at City Hall.

After that where do they go? They go to the lawyer's office, $1500 goes to Tracy. Where does Mr. Jout go after that? North Carolina. Does he go to live with Tracy? No. He goes to North Carolina. He sends some clothes over to Brooklyn to the new apartment. Where does he go? North Carolina.

Don't forget also that Jimmy Yu had a conversation with Tracy right after the marriage ceremony, gave her his card. "If you have any problems give me a call."

Why should she give Jimmy Yu a call if her husband is going to be living with her? Does Jimmy Yu not

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know that his boyhood friend is going down to North Carolina to work? Of course he does, Jout was living with Jimmy Yu and with his sister, but not with Tracy.

In a couple of weeks later Jout is over at Jimmy Yu's apartment playing Mahjong. Is he home with his wife? No, he's at Jimmy Yu's. The lawyer calls and says "The girl wants more money and I want the rest of my $500."

Now, why is the lawyer calling Jimmy Yu if all he has to do is pick up the phone and call Brooklyn, send somebody to Brooklyn? Or send somebody to 2185 Valentine Avenue. "I want more money" he says, so Mr. Jout goes out and borrows the money from Jimmy Yu, his faithful friend, gives $500 to the lawyer, and Jimmy Yu is supposed to pay the rest to the girl. Why does Jimmy Yu have to give Tracy money? You heard about that meeting.

Tracy got the apartment in Brooklyn, called up Jean Fong, not her husband, she called up Jean Fong, Jeannie Fong says -- she says "I just got this apartment in Brooklyn, I need money for rent, the down payment." She says "Call up Jimmy Yu."

She calls him up, they meet down at the restaurant, and Jimmy Yu says I don't think that he's

supposed to pay for the apartment, but I'll call the lawyer and give you the money anyway.

Off she goes to Brooklyn, makes the down payment and she moves into Brooklyn. Does she move in with Mr. Jout? No, he's living with Jimmy Yu and then in North Carolina. She moves in with Frances, and this is supposed to be a husband and wife relationship between Mr. Jout and Tracy.

The I-130 petition in that case, you can look at that in the jury room, that says they are going to live at Jimmy Yu's house. The problem is that Mr. Chu knows that they lived -- rather that Tracy lived at 2185 Valentine Avenue with the other girls. Obviously he can't put down 2185 Valentine Avenue on that form because that's got her sister's address on it; Mildred's form says 2185 and it will look suspicious at immigration if you get the same address with the sisters, their supposed Chinese husbands, young ladies of Puerto Rican ancestry marrying Chinese men.

So he doesn't, he eventually puts down Jimmy Yu's. It's a good ploy because Jimmy Yu is the childhood friend.

So by the end of August 1973 Mr. Chu had another $1000 from the scheme, that's the $1000 he's

gotten in two $500 payments from Mr. Jout.

Then Jout goes to North Carolina and he lives and works in North Carolina until February of 1974 and at thattime of course Jimmy Yu knew where he was because Jout was making payments through Jimmy Yu to Tracy.

We also know from the later conversations in Gene the lawyer's office that he knew that Mr. Jout was in North Carolina because he tells Jout, "Look, now we have to go to an interview. You've got to move in in Brooklyn ." And he later tells him about this North Carolina business. "You can tell them you work down there but say you came back every two weeks or so."

Obviously he has to tell them that or it won't look like they are married for any other reason but to obtain a green card if Jout is working down in North Carolina after they get married.

So Jout did move in. The next notice came announcing an appointment for March 15. On March 15 they were coached again by Mr. Chu. Not just the usual routine about the apartment, he said, "Look, don't tell them that you paid me $1000. Say you only paid 600. Don't tell them you met in here, tell them you met

in Jimmy's restaurant. And that you fell in love, love at first sight."

Another phony story made up by Mr. Chu with the express purpose of keeping away from immigration the fact that this was an arranged marriage to get away from the immigration laws and to keep away from them the fact that this couple had met in Mr. Chu's office.

He does two things, ladies and gentlemen, to keep that fact from them. He postdates the notary to show that they weren't there the day of the wedding, and he tells them whatever you do don't tell immigration that you met in my office.

If there is nothing wrong with meeting in a lawyer's office, and if everything is on the up and up, why does he even have to bother to tell his clients to lie about that?

But he does. He wants to hide it.

They went to immigration that day, couldn't be interviewed, Tracy didn't have identification, she had to go get her social security card, but they did go on April 2, 1976, and when they went that day, Chu told them before they went, "Make sure that you don't say that you got married for money, Tracy."

He also told them not to mention they had met

in the office, they met at the Lantern Light, the same phony story, and so they were interviewed by Virginia Miller, they lied about living together, they lied about loving one another, they lied about how they met.

Gene Chu sat there through the first interview. Did he stop the second person from being interviewed? No. He heard them tell the lies. After he heard them tell those lies what did he do? They went upstairs to be investigated by an investigator -- this is the day before Chu is in a hurry to get to his closing in Queens -- does Mr. Chu tell this couple, look, don't make any more statements, you're in trouble, you've lied, I'm washing my hands of the whole thing? Did he say, withdraw your petition, you are a couple of liars. Nobody believes you?

He doesn't say that. He lets them be interviewed again.

He had Jout, the second one to be interviewed, he had him go right ahead and lie about the same story. What does Mr. Chu tell you, ladies and gentlemen, what are you supposed to believe about the reason why Mr. Chu didn't tell this couple, as he claims he told Mildred and Mr. Fan, that they weren't believed; what does he say about that?

Page 1007 of the record, in the afternoon. Question about the conversation he had with Mr. Jout and Tracy before they went upstairs to the 13th floor.

"Q To the best of your recollection what was the conversation you had with them at that time?

"A I don't recall the discrepancy. I think I spoke to them and told them that it wasn't necessary to lie about anything, but at that point I didn't know what would happen if they would change their story and tell the truth as to their meeting. And I think I did go into discussions about the discrepancies about the dog, when they got the dog, and also about the lake or the trees around the house.

"I didn't know what would happen if they would change their story and tell the truth as to their meeting."

You know what would happen. Immigration would have been suspicious, they would have asked more questions and Mr. Chu would have been exposed as the arranger of all these marriages.

But he couldn't take that chance, ladies and gentlemen, so he let them go ahead and lie.

He told them to keep it up, continue lying or else you'll be arrested, said Mr. Jout. But he

couldn't stay the whole time, he had to get to his closing. It didn't matter, they lied anyway, as they testified.

After that, of course, Mr. Jout didn't see Gene Chu for almost a year, and during that year where did he live? He lived with Jimmy Yu. He was even in business with Jimmy Yu during that year. Can you imagine in a million years that Jimmy Yu believed that Jout was living with Tracy? They lived together in Jackson Heights, not with Tracy. She lived with Frances in Brooklyn.

Husband and wife, Jout and Tracy? What did Jimmy Yu know? He knew they weren't living as husband and wife.

Where was Tracy? She was out in Brooklyn keeping up appearances, using her married name, keeping up appearances that Mr. Jout was living with her as her husband.

Then in April, 1975, another notice came, and you can look at that too. Investigator, go to the 13th floor. What does Mr. Chu do this time? He calls them in. Does he say "Look, you better forget this, you lied befoer, you are in trouble. You better not go through with this because they don't believe you, I don't believe you, I don't want to have anything to do with you." He doesn't say that.

He tells them to tell more lies. He tells them again "Whatever you do, don't say you got married for money." He doesn't say "Withdraw your petition" or "Quit."

"Just keep on lying, clients. I know about it, but keep on lying."

He has to do that. It is all part of his scheme. If they don't lie, they can't fool the immigration service into believing they are married. Why doesn't he stop them? Why does he not try to stop them from lying and try to get them out of it like he did Mildred and Fan?

The answer is Jimmy Yu. Jimmy Yu is an old client of Gene Chu's. Gene Chu knows that Jimmy Yi is just about Juot's best friend in the world. Do you think that he is going to disappoint his own client, that

he is going to cut off Mr. Jout? Hardly. He is going to continue to tell them to lie and let them lie. He does that.

What do they do when they get down there in April, 1975? They tell more lies. After that Mr. Chu knows they are not living together because he tells Mr. Jout, "Look, John, this time you have got to move into Brooklyn because immigration is going to come around."

Mr. Jout goes to Brooklyn, stays a couple of days, sleeps in the living room, Frances and Tracy stay in the bedroom. Then he is gone.

Immigration comes around. Unfortunately, he is gone by that time, back to Jimmy Yu, back to his sister.

Immigration comes June 2, 1975 -- June 7, a field visit. Check it out. See who is living there. Part of the investigation. There they confront Tracy and they ask her questions about the marriage and how it was arranged, and she gave a phony statement.

She doesn't mention that Gene Chu was the arranger of the marriage. She reports later on when she is questioned by immigration. He only concern is giving up herself.

What does Gene Chu say? Did he say, "Did you tell the truth"? All he said was "Did you mention my name?" She said "No."

Can you imagine, ladies and gentlemen, the sigh of relief that was heard at 9 Division Street?

What's the next conversation? Divorce. It is clear that this is not going to make it. It is clear that Gene Chu can't fool immigration any more and it is clear that if Gene Chu noses around any more, they are going to get to him. So he tells them to get divorced.

They start arranging a divorce. Then there is the hassle about Tracy can't get her birth certificate from immigration, have to go to Puerto Rico, wait there, and so forth, and there are a lot of conversations about that.

On June 23, 1975, they are all in the office together. A cozy group. The first group that was there almost two years earlier when they all met: Mr. Jout, his sister, Gent Chu, Frances and Tracy. They are all in the office. They are discussing the divorce. The telephone rings. It is Alice Aviles.

She talks to Tracy for a minute. Tracy and Frances bolt out of there and run over to Pitt Street.

A couple of minutes later a call comes from Mr. Chu and it is Alice Aviles. He drops everything, hops in his big car, drives over to Pitt Street.

Alice tries to shake him down. She threatens him. She says she is going to report him to immigration if he doesn't come up with $15,000.

What's he got to hide? What could Alice possibly have to say to immigration about Gene Chu, unless she could tell about how all the marriages were arranged, unless she could say "I am afraid, I heard that Lisa Hernandez isn't around any more."

We know she wasn't. She was in Puerto Rico. Whatever could she say, in effect, Mr. Chu in response to Judge Conner's question says, "I just don't know," says Mr. Chu, "what she was talking about."

MR. FLEMING: He didn't say that at all, your Honor, in response to your Honor's question.

THE COURT: No. He said that he didn't understand.

MR. FLEMING: He said he thought the whole thing was strange, was his exact response.

MR. KINGHAM: He did say that, your Honor. I am corrected. He did say he thought the whole thing was strange.

So with this whole strange thing, threatened with an approach to immigration, threatened with blackmail, what does he do? Does he talk to his friend, Officer Chase, whom he has known for seven years, then five years or four years, in the Fifth Precinct? Does he tell the FBI, does he go to immigration? Does he go to any law enforcement officer and say "Look, this lady is trying to shake me down and blackmail me for $15,000 and I don't know what she is talking about." Does he do that? No, he doesn't.

The first thing he does the next day is he calls Mr. Jout, who was married to Tracy, and Mr. Mok, who is married to Alice Aviles, and he said, "Look, what I am going to do. You have to call these girls off."

He doesn't say "Go to the police with me, FBI." He said, "I have to call the girls off, and I am going to call Jean Fong and see if she can help me to call the girls off."

If he has nothing to hide, why is he calling Jeannie Fong to call the girls off? Why does he want those two so-called husbands to help him call the girls off? What could be so important to Alice Aviles that she thought she could shake this man down for $15,000? What could be worth it to Mr. Chu? His

lhr 1200

livelihood? His career as a lawyer? His marriage scheme? If those weren't at stake, why did he tell the cops? But, no. He reaches out for Lisa Hernandez. He sends her the letter.

"Hi, how are you? By the way, some troubles have arisen. They think you might be bumped off. It is imperative that you get ahold of Tracy right away."

Obviously he has to use Tracy's name becasue at least to his knowledge Lisa Hernandez has no connection with Alice Aviles. So he puts it in terms she will understand. "Get word to Tracy right away through her brother in Puerto Rico. Call me, call me in New York, call me collect. But whatever you do, get word to me, somehow, that you are all right."

He doesn't go to the police and say "Don't worry, this is a lot of nonsense. Lisa Hernandez is all right. They don't know what they are talking about."

Let's talk about Lisa Hernandez for a minute. That's one of the marriages that Tracy had a hand in arranging. It is a marriage that Jimmy Yu had a hand in arranging. It is a marriage that Jimmy Yu introduced Perry Chang to Mr. Chu, it is a marriage where Tracy, for money, because she was greedy and wanted an extra $250, brought in Lisa Hernandez at the express

request of Jimmy Yu to the restaurant to meet Perry who was a waiter.

Lisa meets Perry. Again, what? Love at first sight? They go for blood tests. Who takes them? Jimmy Yu. They get married at the True Light Lutheran Church. Who is there? Jimmy Yu.

$1000 in cash. How did Lisa get into it? She testified she needed money, she knew Diego, Tracy's brother. She talked to Tracy about the marriage. She heard about how much money she could make. She agreed, a marriage for money.

Gene Chu knew that this was not a marriage where people would live as husband and wife together. It was right after the marriage, he talked to Lisa Hernandez and he asked her if she were gay. She said yes.

He said, "Can you keep your lovers from going in and out of the apartment so the doorman doesn't get suspicious?" He said, "You have to keep up appearances." He said, "Is your roommate going to mind if Perry lives with you so that nobody gets suspicious in case immigration comes around."

Can you imagine that she is lying about that, about a fact that -- a facet of her life that is as

personal as any can be, and she would come into this court and lie?

She also signed an I-130. She doesn't recall where she signed it. She knows it wasn't in the lawyer's office.

She went out to the airport thatday to work. She worked for American Airlines as a stewardess. She so testified. Didn't she also tell you that she didn't see the lawyer that day, that Jimmy Yu had her sign some paper,she didn't remember what it was,at the church.

This document, Government's 32B, the I-130. 32A is the cover letter which is sent to immigration on November 8, the day of the wedding. So Gene Chu had to have this document signed in his hand on November 8.

We submit that you should infer that Jimmy Yu had her sign this in blank at the church, and she signed her own name. She first signed E. T. Hernandez. Then, obviously reminded, she wrote Elizabeth Chang. Some marriage. We submit that Jimmy Yu had her sign this in blank and then he took it to the lawyer's office on November 8, because she wasn't even there. She went to the airport.

That's got an absolute lie in it. It says the parties were living together on East 80th Street, they intended to reside as spouses at that address.

Then, as you know, in the summer of 1974 the notices began to come from immigration, and Gene Chy and Perry separately went to the apartment. Obviously, Gene Chu is not going to admit that. His version has got to be different. He tells you Perry called and said "I have got to be nearer to work. You come to the apartment."

It creates the impression that they were living together and Perry wanted him to come up to their apartment, when in fact, ladies and gentlemen, you know that Gene Chu went up to that apartment, Barbara Harris was there once, saw them there, and they practiced for immigration. Took Perry around and had him practice.

You also know from this evidence that Perry didn't know enough, so Gene Chu sends in herself making excuses for the immigration interviews.

Does he once in any of those letters say "We are not going to come because the people aren't ready," and how many of the spouses testified to you that

that is why they didn't go to immigration on various dates?

Then Perry got mad and he threatened her. She called Gene Chu and he said he wouldn't putit past him. She wouldn't be threatened.

At the end of September she left, went back to Puerto Rico. When Gene Chu couldn't get in touch with her in September, 1974, he got ahold of Barbara Harris. They had a couple of meetings.

He said, "Look, immigration is really going to start nosing around, I want to get my story straight."

What's there to get a story straight about if everything is on the up and up? Is he not afraid that because Perry is mad that Perry is going to blow the whole thing to immigration? Why is he trying to set up a meeting at 3 o'clock in the morning in the San Juan Airport with Lisa Hernandez?

Is there any reason in the world to do that if everything is on the up and up? What's his remark to Barbara Harris when he comes back? "Why didn't you trust me?" Why didn't you trust this man who wouldn't talk on the telephone, as he told Barbara Harris, because he is afraid he is bugged, and why wouldn't she

trust this man who is afraid to talk to Brian Yeung, another young Chinese man, about a marriage because he is afraid that Brian is investigating him? Why, indeed.

How about Brian? December, 1973, he meets Gene Chu. Gene doesn't want to talk to him about the marriage. He doesn't talk to him about the marriage until Brian brings a friend, Mr. Lau, who refers him to Mr. Chu.

He brings a voucher. All of these aliens, ladies and gentlemen, that you have heard testimony about, even in Mr. Chu's testimony, were introduced to him by someone he trusted, and obviously it had to be that way or the scheme would be blown.

So he wouldn't talk to Brian up front. He waits until Brian brings somebody to vouch for him .

Brian yeung is a little bit different. Brian Yeung is different because he followed instructions. He did what Mr. Chu told him to do. He moved in with Imgard, he lived up there, he liked Imgard's child. Imgard says the child is very friendly, you probably couldn't help but like him. He worked up in Connecticut but came back to New York on his days off.

Did he intend to live there as husband and

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wife or was the only reason for that marriage to Imgard to get immigration benefits? When he couldn't get them, they arranged for a divorce.

(Continued on next page)

How did Imgard get into it? She had the baby, she needed money, she asked Tracy, "How about getting married?" Remember, she had been around before, she knew what the scheme was.

Tracy said, "Well, this is what I got, and you are going to have to pay me $250 for the introduction, and this is what you are going to get."

Imgard thought it was a good deal, so she went into it. Where was she introduced to Brian? In the lawyer's office. Where did she and Brian tell Immigration they lwere introduced? Through Margie Hernandez.

Did Gene Chu know that was a lie when they said that?

Answer: Yes.

Did he help them give that lie?

Answer: Yes.

Did he tell them to withdraw the petition after they lied? Certainly not.

Who gave the money to Imgard? Gene Chu.

How much? $1500.

How much did he charge Brian? $1000 again. The same thing with the fees.

In October and November and December of 1974

hs2

these people went to Gene Chu's office to rehearse. You can look at the notices. They are in evidence. Every time Gene Chu sends an excuse back. Does he say "They are not ready, let's wait until they are ready for the interview"?

No. He makes up other excuses. They may be true, convenience. Very convenient, he was on trial, sick, on business. Of course, very nice.

But Imgard and Brian weren't ready. They went to the interviewer and they lied. The next thing that happens to Brian, he goes back to Connecticut to work. In August, 1975, when Gene Chu admits that he thought he was under investigation by Immigration, he goes up, out of the dark, 10 o'clock, up to the Cobs Mill Inn.

What is so important in August of 1975 that he is so desperate that he has to get a hold of Brian Yeung, that he has to impose on a friend's wife to go with him up to Connecticut to talk to Brian? What could possibly be so important? The shakedown of $15,000? That happened six weeks earlier.

Doesn't he know that his clients are talking to Immigration? You have heard on cross-examination the dates of the statements that these witnesses gave to Immigration during July, and you heard from Mr. Jout's

testimony that he was the first one on July 1, 1975. A month later when Mr. Chu gets wind of what is up, what does he do? He goes to Connecticut. Just out of the blue.

He wants to see Brian, see how he is doing? Talk to him about Immigration? Tell him he better stay home at 2185 because, if he doesn't, don't you imagine, ladies and gentlemen, that the scheme is going to be blow to Immigration. Because, if Immigration comes around, Brian is not at 2185, he is up in Connecticut, working at the Cobs Mill Inn, you see.

I am not going to drag you through the facts any more. You heard them as well as anybody in this courtroom. But, the truth, ladies and gentlemen, as you know it, and as you heard it, and as I submit you will believe, is that not one of these marriages was entered into for any reason other than to get Immigration --

MR. FLEMING: I object to that statement. I move for a mistrial, if your Honor please. Mr. Kingham has no right to say what the truth is in this case, or in this courtroom. I move for a mistrial.

THE COURT: Denied.

MR. KINGHAM: These were not, ladies and gentlemen, marriages of people who were going to be husband and

hs4

wife and live together. Yes, Brian was a nice guy and he treated Imgard and her child well. Wun Chiu Fan harbored thoughts of having sexual relations with Mildred Miranda. But none of that changes the reason for these marriages, the sole purpose of the marriage at the time they were entered into: The purpose was to get the green card for the man and to get money for the girl.

Can't you imagine that if someone gave Tracy $1500 for any reason she would take it, and the marriage was just a convenient route to do it.

You may wonder how all of these facts fit into the indictment in this case and what the charges are. Judge Conner in his instructions will give you in detail the nature of the charges, and you can ask to have the indictment sent in to the jury room. If you do ask for the indictment, you will see that it tells a sort of story of what the charges are in this case, and that is all it is, is a charge. But then think about the facts and relate them to the charge as Judge Conner gives it to you.

You will see that the Government has proved that each of these defendants and the people whom they helped to marry engaged in a fraud against the United States, that they agreed to do it, they were in it together,

and you have seen how they interwove the evidence.

Jean Fong and Jimmie Yu witnessed the same marriage, Jimmie Yu introducing people, getting Tracy to solicit people. They are all in the same group, ladies and gentlemen. The purpose of this was to get Immigration to believe that these folks were married and to get the green cards.

Before I close and turn you over to defense counsel for their remarks, let me point out two things. Mr. Concannon and Mr. Barry, on behalf of their clients, will probably argue to you that there is no evidence that their clients knew that there was any purpose to defraud in these marriages. That did not know that if anything was going on it was illergal. They did not know about it.

I suggest to you that you look at the evidence and see when Jeannie Fong was present with Frances Torres, and if she didn't know that Frances was supposed to get a divorce when Tommy got his green card, and if she wasn't present in conversations when the girls were told that they had to have the man live in the apartment to keep up appearances.

Ask yourself if she wasn't also present at and arranged the switch between Tracy and Mildred. Ask

yourself if she didn't sign these marriage licenses in different names to keep from being detected. Ask yourself if she wasn't paid about $200 a shot for each of the marriages she was involved in.

Ask yourself about Jimmie Yu, whose motive may not have been money -- we submit that he committed these crimes out of friendship, but they are nonetheless crimes, that he was there when Mr. Jout was told by Chu that he would get divorced. He knew Jout wasn't living with Tracy because he lived with Jimmie, and he was making payments, and he knew that Tracy had solicited Lisa Hernandez, and he was asking Tracy for girls.

There isn't any question that he knew that these marriages were not good marriages of people living together as husband and wife.

Finally, ladies and gentlemen, a word about a subject you will undoubtedly hear a lot about from defense cour l, and that is credibility. Are the Government witnesses believable, you will be asked. Counsel will undoubtedly make very cogent arguments as to why they think you should not believe the Government witnesses.

They will suggest that these witnesses have lied to you at trial, that they had motives to lie, that their testimony is inconsistent with what they have said

before.

When counsel are making those arguments to you, I ask you to do a couple of things. First of all, ask yourself, does it really make sense that at this stage of the game these witnesses would lie to you. Ask if they really have the motives to lie that the defense will suggest, or do they no longer have any motive. Are they no longer trying to defraud, as they did when they were working with the defendant?

Scrutinize the testimony of each witness. Scrutinize the testimony of Gene Chu and see if he lied to you from the witness stand. Determine who has more to lose by the revelation of the truth. Determine who has the greater motive in your estimation, because it is your estimation that counts, not mine or any other lawyers', who has the greater motive to lie to you.

As I told you in opening, we made no excuse for the prior illegal conduct of the Government witnesses. No excuse for the fact that Lisa Hernandez told a pack of lies the first time she gave a statement to the investigators in Puerto Rico. But we use these witnesses, ladies and gentlemen, because they were there. As they say, they were there when the deal went down. They were there when the money changed hands, they were there when

hs8

the arrangements were made, they were there when they lied and they were there when the defendant told them to lie.

When you look at the witnesses and you look at their testimony and you scrutinize this evidence with the intelligence and common sense that you obviously have as people, you are going to convict these defendants.

Thank you, your Honor.

THE COURT: We are going to take our noon break now and come back at 2 o'clock. Don't discuss the case in the meantime with your fellow jurors or anyone else. Have a good lunch.

(Jury not present.)

MR. SPRIZZO: Your Honor, just for the sake of preserving the record, we did not feel it was proper to constantly interrupt Mr. Kingham during his summation, but I think, with all due respect to Mr. Kingham and to the Court, there are two things we must point out for the record.

On numerous occasions, too numerous to mention, and it was capped by a perfectly improper statement at the end of the summation, Mr. Kingham continually injected himself into the case, injected his own credibility into the case, when he said on numerous occasions what the truth

was, and he capped it, the one I would call specific attention to, what his final statement to the jury was, that "We use these witnesses because they are there." That is testimony.

While the prosecutor is entitled to argue to the jury what they may infer from the evidence, he has not right under the Spandula caseto inject his own credibility into the case. Throughout his summation on numerous occasions he testified as to what he said the truth was, and "I use these witnesses for this reason." That is clearly improper and requires a mistrial.

In addition, he also on numerous occasions suggested to the jury that if the marriage was entered into for the sole or primary purpose of permanent residence, the clear implication of his remarks was that that would be sufficient to make out a sham marriage.

I think your Honor knows and will charge to the contrary, and we take formal exception to that too.

THE COURT: With respect to your first point, I recall only one instance in which Mr. Kingham said, "I believe." There was no specific objection to that instance, but since he did say it at least once, I will instuct the jury to disregard any statement as to what the Assistant U. S. Attorney believes.

hs10

Also, I will tell them to disregard any statements about their use of the witnesses that are available, although there is a proposed charge, which was proposed by both sides, that says in effect that the Government has to take its witnesses as it finds them.

MR. SPRIZZO: But he cannot testify to that, Judge, as to what he was going to do. That is the point. He cannot put his own credibility in issue.

THE COURT: I think what is objectionable, perhaps, is the implication that these are the only witnesses that might have been available, and in view of that possible implication I will instruct the jury to disregard that statement as well.

MR. SPRIZZO: Our motion has been made. We do not think a limiting instruction can help.

MR. KINGHAM: First of all, your Honor, if I used the term "I believe" obviously it was inadvertent, and it was certainly not used in the context of saying that I believe the Government's witnesses. I might have said that I believe the evidence shows or I believe someone testified to something, but I will scrutinize that summation over the lunch hour, if anything is typed, but I seriously doubt that I said at any point "I believe the testimony of somebody" or I believe the Government's

witnesses.

Secondly, I certainly did not inject either my own credibility or the credibility of my office by suggesting that the Government has to use the witnesses who were there. Obviously the Government has to use the witnesses who were there. That's how you prove cases.

It seems to me that the argument is always made in cases like this that when you use witnesses who may have a motive to lie either because they have been immunized or questioned before by the prosecution, that those witnesses have more of a motive to lie, and the point is, and I think it is properly made, that the Government does not have to -- is permitted to say that these are the people who were there and that is why we use these people and we make no excuse for their prior illegal conduct.

I think it is properly injected into the summation. I object to having the jury instructed to disregard it.

THE COURT: The only thing that I think might be objectionable is the possible implication that these are the only people that knew anything about this.

MR. KINGHAM: I don't think that implication

hsl2

was there, your Honor.

THE COURT: I do not think it is really a serious implication, but since the objection has been made, I will tell the jury to disregard the statement. I do not think the statement is a necessary statement, and so to avoid any possible prejudice to the defendants, I think I should give that instruction.

MR. SPRIZZO: To my second point, your Honor, one of the remarks I specifically call your attention to, he said on his summation to the jury in discussing Mr. Chu's testimony, this is in substance, that if Mr. Chu had said he knew the marriage was for the purpose of getting a green card, it would be virtually admitting his guilt. I am saying that that is tantamount to arguing to the jury an improper argument that Mr. Chu's knowledge of the fact that these people -- which he did admit, by the way, he admitted that these people were interested in getting residence in the United States, that if he admitted that, that was an admission of guilt. I think that is not the law. It is an improper argument and it is terribly prejudicial.

THE COURT: I told the jury to disregard that.

MR. KINGHAM: The Court already cured whatever problem there may have been.

(Luncheon recess.)

AFTERNOON SESSION

(2.00 p.m.)

(Open court.)

(Jury present.)

THE COURT: Before we have the closing arguments of the defense counsel, I want to caution you again that all counsel are doing in their statement is to state what they think the evidence shows or fails to show.

If counsel make a statement about their belief as to the truth of any of the evidence, or their belief as to what the facts are, I don't want you to pay any attention at all to the state of mind of the attorney for the Government or the attorney for the defendants.

This is not a test of their credibility. You will be the ones who will determine what the evidence shows, and it is what you think about the evidence that counts. The opinions of counsel are of no consequence whatever. Counsel for both sides are admittedly anything but impartial and unbiased.

Likewise, any statement made by counsel which are not based upon the record should be ignored by you. If a counsel states something about facts which are not in the record, put that right out of your mind and pay absolutely no attention to it.

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Your verdict will be based upon the evidence that was actually adduced and not upon any statements made by counsel as to what the facts are to any extent that those statements are based on things not in the record. You will determine what the evidence shows and your verdict will be based upon that determination.

Mr. Fleming.

MR. FLEMING: I am going to make a summation, your Honor, but I thought it was reversed in the order of the indictment.

THE COURT: That may be. That is up to the defendants.

MR. FLEMING: I thought that was the law.

MR. CONCANNON: We assumed that that would be the case.

THE COURT: That is entirely up to defense counsel.

MR. BARRY: Ladies and gentlemen, your Honor:

My client has been charged with one count in this indictment, and that is a count of conspiracy.

As the Judge said to you, as far as the facts are concerned, or the recollection of the facts, you are the one to determine that.

Let me just review with you, as far as the

defendant Jimmie Yu is concerned, a man by the name of Jout came to this country as a visitor. He was a boyhood friend of Jimmie Yu, and when he came here he came on a valid passport, was admitted, and then looked up Jimmie Yu and he found him and they renewed their friend-s-ip.

Then there came a time that his time -- we are talking about Jout -- his time was expiring as for his stay in the United States, and he went to Jimmie Yu and he said to Jimmie, "Do you know anybody that could help me extend my time in the United States?"

And he said, "Yes, I have a lawyer, Gene Loy Chu."

Now, you have heard the testimony of Gene Loy Chu. He had represented Jimmie in many transactions, business and otherwise, and he sent him to him because -- he sent Jout to him because he believed that this lawyer was a trusted one, because in all the transactions he ever had with him, they worked out well.

So who goes to see Gene Loy Chu? Jout, Jout's sister, and Jimmie Yu. And they discuss how he could extend his time, and they discussed about an extension of 30 or maybe 90 days he could get for him and that's all.

Then he said the way to stay is marry an

bs4

American citizen. And at that meeting, if you will recall, they said, "We'll think it over." And then who came back? Jout and his sister. And at that time there was no discussion about divorce at the first meeting. The only time there was a discussion about divorce was when Jout and his sister were there and Gene Chu Loy.

THE COURT: Gene Loy Chu.

MR. BARRY: I will use the word lawyer, your Honor. I am getting a little mixed up with Loys and Choys.

Now, he said, "Marry and American citizen." This was his legal advice. My client sat there while this advice was given.

How many of you on the jury have ever thought when you would marry an American citizen that you become an American citizen or that you get some benefit? This was legal advice given by a lawyer.

If you want meat you go to a butcher shop; if you are sick you go to a doctor; if you want legal advice you go to a lawyer. And this is exactly what my client did. He went to a lawyer who he trusted.

I don't see any conspiracy in that. That was the transaction of Jout. Jout then got married. It was his decision to get married, and later Jout went to

North Carolina.

Jout said to Jimmie Yu, "I'd like you to give my wife, Carmen Jout, money for her support and for tent." This he did.

You heard Carmen Jout testify that every transaction he had with her he gave her a check. Is this a scheme? Is this a plan to defraud the United States Government or violate any law?

Then there came a second transaction:

Perry Chang. Perry Chang came to see him -- he worked in a restaurant with him, he was a friend, he was a god-parent of one of his children, and he said to him,"How can I stay in this country?"

He said, "Very simple. Marry an American citizen."

This is the legal advice he got from his attorney, and he had a right to rely on that and that is exactly what Perry Chang did.

MR. KINGHAM: Your Honor, I hesitate to interrupt Mr. Barry, but there is no evidence of these alleged conversations in the record.

THE COURT: Also, the statement that he had a right to rely on it is a conclusion of law.

I will instruct the jury as to the applicable

law, and you confine yourself to the record, please, sir.

MR. BARRY: I will, your Honor.

Now, you will recall that Jimmie Yu attended the wedding of Perry Chang. But he did not, on any occasion, ever go back to the lawyer's office. All that Jimmie has done in this case is refer two of his friends to a lawyer who he had reason to trust, and that's all he did.

If referring a friend, or helping friends is a crime, then I think we have all been guilty of a crime some time or another. That is all that Jimmie did.

I ask you, based Upon his friendship and his help, that you acquit Jimmie Yu.

THE COURT: Mr. Concannon.

(Continued on next page.)

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MR. CONCANNON: Good afternoon, ladies and gentlemen:

Again, for the last time, my name is Thomas Concannon, an attorney with the Legal Aid Society, and of course Jean Fong is my client.

It is sometimes said in connection with criminal cases -- it is often said thatthe jury's job is to determine the guilt or innocence of the parties. That is entirely untrue, that is not the case at all, that is not your job.

Innocence of the parties, and in particular I'm talking about Jean Fong, is something, if you are being true to your oaths, you've already found, she is innocent, she is in fact innocent. What you have to decide is whether or not all the material accumulated here, and the testimony of the witnesses, add up to the suggestion that she's guilty beyond a reasonable doubt. That isthe only question here for you.

I want to be sure to remind you to keep that in mind because we don't ask for any favors, frankly, we don't want your sympathy,she's not entitled to your sympathy. This is a criminal case, this is a serious matter and carries a very serious penalty.

What she wants you to do is to go into the

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jury room to begin your deliberations, keeping it in mind, as you should, that she's innocent, that she is completely innocent, and make a finding only when and if it all adds up to guilt beyond a reasonable doubt, you can come back and tell us that.

What guilt beyond a reasonable doubt in this case means is that Jean Fong became in a sense, I guess, a marriage broker and received some money -- there may be a question about the amounts -- but no question about -- as far as I'm concerned, really, there is no question that money was given to her as a marriage broker. In fact, probably a pretty common occupation in almost every country, almost every country in the world.

But what you are going to be asked to find is whether or not she did that to help put legitimate marriages together or whether or not she did it with the purpose and the intention of defrauding the United States, a conclusion which I'm telling you is ridiculous. I think that you should have no trouble finding that conclusion, coming to that.

What the government has put together through this past week and a half, frankly, comes down to a smokescreen. I'm not saying that Mr. Kingham, someone I know for quite sometime, is a liar and this is all

something he's conjured up. It's quite a bit more subtle than that. I don't think he's a liar at all.

It all begins someplace around one of these little offices in the Immigration and Naturalization Service where aggressive people, whose functions and paychecks come to them to encourage them to find guilt, to look for it,and to indeed exclude other prospects, or propositions.

This is why you're overwhelmed with this meaningless paper, it is an effort to promote that smokescreen, and I say smokescreen in furtherance for this reason: Consider the testimony about the honeymoon, you know, the honeymoon meetings concerning -- that took place after one of the marriages. Mr. Chu indicated that she assumed, as everybody did, that she would go on a honeymoon.

What the people who went into the marriages had in mind was an entirely different proposition, but it didn't come to your attention through the government witnesses, did it?

Do you think it's fair to assume that through all those interviews, numerous interviews by the Immigration and Naturalization Service of all these witnesses that that was never brought to their attention?

That's ridiculous, of course it was brought to their attention. You see, that was not part of the filtering process which gives you that prospective, that viewpoint of guilt, that's not what you get paid for.

Do you think his paycheck comes to him to say that these people are innocent? It doesn't work that way. That's what I mean by viewpoint, I don't mean lying, I mean viewpoint, and that's why she is sitting here, the viewpoint.

Now, another angle of this viewpoint that may help you get to see a little bit what I'm talking about, very early in the trial you heard me object to what I considered to be a somewhat sinister sounding use of the name "Mom"

You now understand, I hope, that her husband, a Chinese alien, calls her Mom, her mother calls her Mom and that's her nickname.

Part of this viewpoint also comes, as you heard in Mr. Kingham's conclusion this morning, when he said that - what he called in his closing, the first such marriage that was arranged by J[illegible] Fong, that she indicated she wouldn't witness that because she had witnessed others.

This is the viewpoint coming only from that

angle, but yet he tells you, as he goes further on, that there were two other marriages after that, after that point in time, where she apparently doesn't have that same sense of reservation and indeed puts her own name on it, Mary Fong.

That's the difference in perspective. Their purpose is to show guilt. Your job is to filter that out.

Why you are asked to take this trouble and this enormous expense is because, from the very beginning in this country, we have had a certain distrust for this sort of thing, which way the paychecks come. You shouldn't trust that today, and that's why you are asked togive it this consideration.

Take this other perspective, which I'd like you to consider: I consider myself a somewhat romantic figure, that is, I like romantic days, I like to think that marriages are made in heaven --

MR. KINGHAM: Your Honor, I'm sorry, I must object to this.

THE COURT: Yes. Mr. Concannon, your own viewpoint of your role and of Mr. Kingham's role and of the role of the INS is not only outside of the record, but I think is improper. Confine yourself, please, sir,

to what the evidence in the case does or does not show.

MR. CONCANNON: Yes, your Honor.

Ladies and gentlemen, it is nice to think, put it that way, it is nice to think that all marriages are made in heaven and that they all begin with love. Za Za Gabor marries conceivably for diamonds, people in this case married for something more simple than that, a break, for money, for some support, for some essentials of living.

Jean Fong is a mother of four children, married for 11 years now to a Chinese alien. Her stepfather was, until his death, a Chinese alien. She found tenderness, hard working person, dependable support. From the girls she introduced to these marriages, one with some kind of drug problem presumably, because she had a pill case out in New Jersey which the government helped her -- perhaps they helped her to avoid

Certainly the fact that she is out and walking the streets right now has something to do with the government, as she indicated, she is only here and outof jail because of their assistance. She wanted a home, she needed a home.

Another, about to have a baby. What did Mom say? What did Jean Fong say? That this is what you

need, legitimize the name for your baby. You have some support, someone to take care of you, a home, someone -- you have three or four girls sharing an apartment in the Bronx wanting individual homes. Another one indicating that she wanted a home and this support.

For the girls it was something solid, something dependable. Beginning with love? No. Absolutely not. And no one suggests that that is one of the requirements.

The government will ask you to believe that this whole proposition, all this marriage arranging, was part of a conspiracy, a vast conspiracy, something that began in some seddly little dark corner with an agreement to defraud the government.

It actually began with the marriage of Alice Aviles to a Chinese national, after which a girl by the name of Jeannette, and one of the other witnesses who testified here, came to Jean Fong and asked where could legal advice be had.

She sent them to see a lawyer, Gene Chu, a family lawyer, he had represented her and her husband in numerous matters, and sent Jeannette on her way to see Gene Chu.

She continued to have confidence in him. From the meeting with those girls, two or possibly three

other marriages were arranged, and Jean Fong received money.

They went to wedding ceremonies, they took pictures, there were parties in restaurants after the weddings themselves, and discussions about honeymoons. None of the things seemingly important to the government witnesses, apparently very much afraid ofthe threats of prosecution here.

What the government asks you to do, ladies and gentlemen, is to guess that Jean Fong is guilty and to come back and say, as you'll be asked when it comes time to give your verdict, how do you find with respect to Jean Fong?

If you do as the government asks, you can guess that she's guilty. You certainly can't find her guilty on the evidence.

The conspiracy alleged is one to defraud the United States Government. There is no testimony she's in a government building, that she ever touches a piece of paper going to the government, that she is present at any meeting where discussions are had about how to defraud the United States Government, about what has to be done, other than a meeting where Mr. Chu says, if you aer here to do something improper, waste neither your time

nor your money because they are going to find out. Skip it.

Beyond that the government asks you to do all the guesswork, which you could if you are -- if you want to take that viewpoint, bring you back out here and say guilty.

Ladies and gentlemen, it is possibly an overbearing position for me to take, given the fact that she is dependent upon your mercy here now, but there is no other way for me really to put it. She deserves acquittal. She's not -- she doesn't beg for it, she's not asking for your leniency or sympathy, she deserves acquittal and there is no two ways about it based upon the evidence in this case.

Finally, I'd like you to know that after I finish and I sit down, this will be the last time I have an opportunity to address you, the government will then have a chance to discuss some of hte things that I have said, becuase -- because I won't get a chance again, please understand that doesn't mean that I agree with the things that MR. Kingham will say.

I ask you only to give her every consideration, every benefit of a doubt. It is a serious charge and carries a very serious penalty. Thank you.

MR. FLEMING: Your Honor, may I just move this back?

THE COURT: Yes.

MR. FLEMING: May it please the Court, members of the jury: Don't let this scare you, this is the transcript of the trial. I am going to from time to time refer to it. I am going to be as quick as I can. I am also going to be as long as I think I have to be in discharging my responsibility to Gene Chu.

There is an old story which I think this case is an appropriate case to tell it in, about the two people that are riding in a train and they look out the window and one of them sees a cow standing sideways on the side of a hill and he turns to his friend and he says, "Look at that white cow" and his friend looks up at the cow and says "White on this side" and that's what Mr. Kingham has done here. He's cut this cow right in half, and he took an hour and 15 minutes of your time by my watch to give you the white half of his cow.

Let me give you an example right away in the record in this case: He told you that Mr. Fan testified and Mr. Fan did testify to this, he told you that Mr. Fan -- you may find some sympathy for Mr. Fan -- that Mr. Fan had told Gene Chu that Mildred Miranda would not let

Mr. Fan live with Gene Chu, and that is what Mr. Fan said on his direct examination when Mr. Kingham questioned him -- that he had told Mr. Chu that Mildred wouldnot let him live with her.

Then we had cross-examination, and you may remember when we opened this case we just asked you a few things, one of the things we asked you was listen to all of the evidence including the questions we ask and the answers we get.

I asked Mr. Fan on cross-examination, and you may wonder why Mr. Kingham in all fairness couldn't have told you about this side of the cow, I said to Mr. Fan at page 127, "Do you remember being asked this question and giving this answer in the grand jury?"

Question in the grand jury, by a prosecutor, a member of this office, it was not Mr. Kingham himself:

"'Did you ever tell Mr. Chu that you were not living with Mildred, your wife?'"

In the grand jury, under oath: "'Did you ever tell him, Mr. Chu, that you were not living with Mildred, your wife?'"

The answer by Mr. Fan just a year ago in the grand jury under oath to a prosecutor: "'I didn't.'"

I asked him again on the next next page, 128, "In the grand jury were you asked this question: 'Did you ever tell him that you were not living with Mildred, your wife'" and poor Mr. Fan in the grand jury, before the screws were totally tight, said "'I didn't'".

I said "Did you give that testimony in the grand jury?"

Mr. Fan said "Yes, I did, I did answer that

way."

I said "And that was under oath?"

Mr. Fan through the interpreter said "Yes."

Then I said "And that was the truth, was it not?"

Finally in cross-examination Mr. Fan said yes. That's the other half of the cow here. That's just an example, as all of you may remember.

Mr. Kingham said in his opening statement, and I have come to agree with him, this is a case about a lawyer. The very first words he said to you, this is a case about a lawyer.

You may find as two of those poor Chinese men said, when we asked them, not when they asked them, yes, Mr. Hittelman did say to them "We are trying to make a case on a lawyer." The only one of the Chinese witnesses who did not say that was Mr. Jout.

He is hanging around. Poor Mr. Fan, he is going back to Hong Kong. Do they have a motive, Mr. Kingham said, do these girls have a motive to lie, do these men have a motive to lie? You may ask yourself, is he kidding.

You may remember the litany. Were any promises made to you? Yes. Have you ever been

promised you will not be prosecuted? Yes. Have you been told that you will be prosecuted if you tell a lie? Yes.

You may wonder if we have that power, and you may ask yourself, who has the power to prosecute these girls if what they say on this witness stand is in someone's judgment a quote-unquote, lie.

Three Chinese witnesses, remember their testimony, I will get to it again. Fan, Jout, Yeung. Poor Mr. Sneakers, he couldn't play the game very well. He is going back to Hong Kong.

David Yeung, he played a little better, but not as well as Mr. Jout. He is going out, but voluntarily and he may come back.

Mr. Jout, he really played the game. He is still here, and his sister is awaiting her citizenship, andthen they can sponsor him. That is all in the evidence. Do they have a motive to lie?

Mr. Kingham suggests that this case started in 1973. You may find that this case started in June of 1975 when Alice Aviles called Gene Chu and said "You killed Elizabeth Hernandez," a demonstrable lie, she appeared. From where, out of heaven? "You hurt the other girls. You better get down here and see me."

Mr. Chu goes down there and Aviles sayd "I want $15,000." Here is how the truth comes out. If you remember Jout's testimony, Jout said Alice Aviles, leading the girls, leading the girls. "I want $15,000 or we are going down to INS and we are going to make accusations."

Mr. Kingham says why should Mr. Chu worry? First of all, he told her to go away, he had done nothing wrong. He had $15,000 in the bank. His argument about his income, how these fees were such a large part of your income. Income is what you earn in a year. He had $5000 in interest income.

How much money do you have to have to earn $5000 in interest? He said he had the $15,000 to pay off Alice Aviles, and he said he hadn't done anything wrong.

Did he have anything to fear? He had to fear exactly what happened here, because by January, 1975 -- June, 1975 he had reason to believe what these girls were up to, what they had done to their husbands, that his judgment had been wrong about them, or at least not about all of them but Imgard Cruz who was not in on the plot and was still married.

There has been a lot of talk inthis case, a lot

of rhetoric, Mr. Kingham says it is not illegal to pay money in consideration of becoming married, and it is not.

You all gave your oaths on that at the beginning of this case when we picked you. Mr. Concannon says marriage brokering -- the Congress in this country has not said that is illegal. In the history of this country and all of our heritage, back in other countries tells you why -- but most of all, this indictment does not say that is illegal, and don't be confused.

The charges in this indictment are very clear and they are very simple, and you may find that they are very simple to decide. The charge in this indictment against Gene Chu is that -- not that he participated in a marriage where the wife received some money and a promise of support, not that he filed an I-130 in connection with the marriage where certainly a substantial reason why the Chinese man wanted to get married was to become a resident of this country.

The charge is that he knowingly and wilfully filed a false statement as to where these people were residing and were going to reside. That's the charge and that's one of the charges.

The other charge is just as simple, that he told these people, these spouses, befoer they went down

for these I-130 oral interviews that he told them to tell lies.

Third, that he conspired with Mrs. Fong and Mr. Yu to do this. That's the case.

Gene Chu took the stand. He took it Tuesday afternoon, you may recall. Mr. Kingham took him on cross-examination, you may recall, at about 11:30 yesterday until about 4 o'clock. Question after question after question.

Ask yourself if he evaded, ask yourself if he hid, ask yourself if he looked -- because you may, that is now you make judgments -- he he looked like a liar. Ask yourself if he was anything other than responsive, direct, candid, and God's honest truthful.

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He said two or three very simple things. He said he believed in these marriages and he believed these people when they told him that they were going to live together. The girl needed a home, the husband needed a home, the girl needed support, they were going to live together. He acted in good faith.

He told every one of these couples, "Don't fool around, don't waste your money." The Immigration & Naturalization Service is suspicious, and, God knows, if there is anything that is clear in this case it is that you may find that the Immigration & Naturalization Service is very suspicious, and they will check you and they will check and they whill check you, and don't waste your money if you do not mean it. That was his testimony under oath.

You may find that there was nothing to contradict the good faith and honesty of that testimony. He said he did not prepare these people to lie. He said yes, some of those couples did tell a lie in his presence about how they had met, and he said as an attorney he said nothing.

You may find they want to convict him because he is an attorney and he said nothing, and they want to convict him because he typed his own forms and because he

dated the forms on the date -- he notarized the date of the notarization on the date he typed the forms. One on the day of the marriage, Hernandez, one a day or two after.

They ask you to believe that the Immigration & Naturalization Service will discover fraud if he had put the date of the marriage on the notarization. Convict him because he didn't have a secretary.

From his testimony alone you may find what you are presumed to believe at this moment, that he is dead innocent, that he is an honest, decent man, has a good reputation in his community, that he has had to spend these two weeks and the weeks before defending himself against charges that were literally drummed up, drummed up, perhaps you may find, to throw an example out to the community, a target. Make an example.

Those are harsh words: drummed up. But, put him aside. He has no burden in this case. He took the stand without having to take the stand.

Mr. Kingham said, where were his files. Mr. Kingham had every right, as Mr. Kingham knows, to say, "Mr. Chu, bring your files in to court and show me where it says "$375."

You may find that if Mr. Kingham really had

hs3

wanted to see these files, he would have aksed that question and made that demand. They have the burden. This is the -- quote-unquote -- Government of the United States.

You may find the witnesses in this case, and especially you may find Mildred Miranda, Carmen Miranda, Francesca Torres, Elizabeth Hernandez -- I leave Imgard Cruz Yeung aside for a moment -- to be as calloused, as unmitigated, and, maybe the worst thing of all, as uncaring -- as uncaring -- a group of witnesses as ever brought to give testimony under oath in a courtroom.

Put yourself back there and remember them. Remember what you may find to have been the relatively sweet soft-spoken young girls that got on the stand for direct examination. Those were the girls Gene Chu saw. Forget their testimony on crows-examination. I will get to that. But remember their anger, remember their rage, remember Francesca Torres virtually coming out of that chair in anger and rage, uncaring.

Anything, get the job done, get off the stand, go back to where they live.

Ask yourself if you would like yourself, your husband, your wife, your friend, to be subjected to Federal criminal prosecution on their words. That's

what this is. That's them. "You will not be prosecuted if you tell the truth. You will be prosecuted if you tell lies." Every one of them you may find has told a demonstrable falsehood, before and at this trial.

You ask yourself, are the indictments going to come out, or are they part of the team? Those girls made ten times and more, you may find, what Gene Chu was paid. They were supported, and they wanted to make a lot more.

Gene Chu just said, "I didn't do anything wrong." How easy it would have been for him to give in to that extortion. When you talk about character, "I have done nothing wrong."

"Come on, girls, let's make a case on a lawyer. You will not be prosecuted. Have no fear. Our side."

It is not my side.

Mildred Miranda, she was the first girl. She testified, you may recall, that Gene Chu told her in the presence of this guy Raoul, Gene Chu told her that poor Mr. Fan's brothers were going to kill her. Gene Chu told her that Fan's brothers were going to kill her. That's what Mildred Miranda said on this stand.

hs5

Did she tell Mr. Hitte' that? No. Did she tell the grand jury? N . She said on this stand she forgot that.

Page 198, Mildred Miranda, again cross-examination. There is a line in Shakespeare about killing all the lawyers, but what would you do if you did not have a lawyer? She kept saying she never told Gene Chu that she was going to live with her husband at that address.

I said: "Did you give that address to Mr. Chu, the lawyer," the address in the I-130.

She said, "No, he already had my address."

"On August 6, 1973, did you give Mr. Chu that address?"

"No."

On her oath: After you were married, do you recall going back to Mr. Chu's office?

"A Yes.

"Q You do not recall asking him any question about where you lived?

"A No.

"Q Or where you were going to live?

"A No.

"Q And you did not in your husband's presence tell Mr. Chu that you were going to live at 2185

hs6

Valentine Avenue on August 6, the day you were married?"

That's the very next question. The answer is:

"Yes, I think I did.

"Q On August 6, 1973, the day you were married, did you in the presence of your husband, Fan Chiu, tell Eugene Chu that you would be living at that address? Is the answer yes?

"A Yes."

Within two pages, callous, unmitigated, uncaring.

She testified that she had told Gene Chu that she was not living with her husband. I asked her if she had told Mr. Hittelman that. She said no. I said, "You didn't tell Mr. Hittelman that when he interviewed you?"

She said no, she hadn't told him that she had told Gene Chu she was living with her husband.

(Continued on next page.)

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I said, "Had it slipped your mind that you had told Gene Chu that?"

And she ssid, "I didn't tell Gene Chu that either." The other half of the cow.

Finally, Alice Aviles. You may recall this best of all about Mildred Miranda. My question:

"Do you know Alice Aviles?

"A I just know her by sight.

"Q Did you ever have a conversation with Alice Aviles about shaking the attorney Gene Chu down for . . ."

I couldn't even get my question out. You may recall her sitting there with her head going back and forth like a pendulum, "No, no, no."

And I said, "What was my question?"

And the answer:

"I have nothing to do with Alice Aviles. I don't even know her." she shouts out.

"Q Did you ever hear of such a scheme?"

Then his Honor said she never heard of Alice Aviles, is that correct, and the witness said she heard of her, but she didn't have contact with her.

The Court asked, "Have you seen her? Yes, yes, I have seen her."

I say, "Have you ever said hello to her?

"Once or twice.

"Do you have a sister Carmen Miranda?

"Yes.

"Did Carmen Miranda ever talk to you about a plan of Alice Aviles to extort $15,000 from Eugene Chu?

"No."

No, her sister never talked to her about it.

My next question was:

"On your oath?

"Well, maybe she mentioned it."

Mildred Miranda; callous, unmitigated, uncaring.

Torres:

"Gene Chu told me to make up a story as to how I got married."

Remember that, "Gene told me to make up a story as to how we got married."

Witness after witness after witness, with two exceptions which I will get to. Never told Mr. Hittelman that, never told the grand jury that.

Mr. Sprizzo asked if she had ever told him whether Tracy was with her when she met Mr. Chu, and she

bs3

testified on direct examination -- remember her testimony --

"All I remember about my marriage was getting the money. All I remember about my marriage was getting the money."

A few pages later she testified that she told Hittelman she got all her money when in fact she had not gotten it all when she had not been keeping track of it. You remember all these things, it is so recent.

The first day his testimony, meeting with Chu, gets married overnight, comes back, back to the same meeting, "Oh, yes, Gene Chu told me to get divorced right away."

Mr. Sprizzo asked, "Who have been been talking to, Mr. Kingham?

"Yes, I have been talking to Mr. Kingham."

Points of view, perspectives, get a conviction, make a case, make an example.

Gene Chu, she said under oath, told her to lie about any money she had paid to Gene Chu and to lie about any money she had received; Gene Chu told her to tell those lies. She never told Hittelman, never told the grand jury.

She told the grand jury that the Immigration -- she testified in the grand jury under oath, questioned by

bs4

a prosecutor, that the Immigration & Naturalization Service had asked her about payments to Gene Chu and that she had denied any payments to Gene Chu. She testified that way in the grand jury under oath.

Mrs. Griffith, the interviewer, got on the stand, and I said to her, "Am I correct that at no place in your examination of Mrs. Hu," and that is Torres, "at no place in your examination of Mrs. Hu, am I correct that at no place did you ask her how much money her attorney, Mr. Chu, was being paid?"

Mrs. Griffith says, "No, I never asked that question." Exactly the same question that Torres in the grand jury under oath, this totally uncaring person, had said was asked.

Mrs. Griffith says, "No, I never asked that question."

My question was, "If she," meaning Frances Torres, "had so testified under oath, she would be mistaken?"

And Mrs. Griffith said, "Yes, it would not be the truth." That is perjury. That is Frances Torres. That is their half of the cow.

Carmen Miranda. She testified that she had never lived with Jout. Talk about regard for the truth.

bs5

Cross examination -- it's always got to be cross. Ask yourself if we had anything -- cross-examination of Carmen Miranda -- she testified she never lived with Jout. Remember the questions as to background? You may recall yourself that she was interviewed not with Jout or with Chu, but on June the 2nd, before the Aviles threat, she was interviewed on June 2 by INS; they came to her house.

My question:

"Did Immigration come to your house in June of 1975?

"A Yes.

"Q That was on June 2nd, beginning of June?

"A Yes, it was.

"Q It was before this conversation on the telephone with Aviles?

"A Yes.

"Q It was before any conversation with Jout about divorce?

"A Yes."

I asked if she calls Mr. Jout John and she said yes.

"Q When Immigration came to your house, did they say who they were investigating?

"A Yes, they did."

Jout wasn't there, Chu wasn't there, it was Carmen Miranda and the Immigration people.

"During that interview you said that you wanted to tell the truth, isn't that correct?

"A Yes.

"Q During that interview uou told the Immigration people that you and your husband John Jout lived together during August of 1973 after you were married, did you not?

"A Yes, I did."

That on June the 2nd when she was going to tell the truth.

Then of course I asked her if this was the truth and she said it is not the truth. It can't be the truth any more because on direct examination she said she never lived with Jout.

She told Mr. LaRocca, who testified this morning, that she lived with Jout after she was married in August until Jout went down to North Carolina to work. She told Immigration exactly the same thing, by her own admission, on June the 2nd, 1975, and Mr. Chu was not around her, and he had not prepared her, that she had decided to tell the truth, and you may find the screws are

bs7

only halfway in.

Mr. Chu told her to make up the story about how they met, the constant refrain, love at first sight. Not to Hittelman, never told him that, never told the grand jury that.

I have to read something else -- I hate to take the time, but I have to bring this trial back to you. Page 533 -- talk about callous, careless indifference.

2 The cross examination:

"Q Did you testify on direct examination that you had received $100 a month from Jout?

"A Yes."

That's what she had said.

"How much money would you receive?

Mr. Kingham said, and she said, "$100 a month." That's all she said on direct examination.

What was the truth?

"Q In fact, weren't you receiving $10[illegible] a month plus 170 a month for rent?

"A Yes.

"Q And didn't you receive that from John Jout from the day you were married until June, 1975?"

Two years.

"Yes.

"Q On your direct examination by Mr. Kingham did you forget that Mr. Jout was also paying you $170a month for your rent?

"A Yes."

Tell the truth and you won't be prosecuted. Tell a lie and you go to jail. What a game.

My question:

"Q You forgot it?

"A No, I haven't forgotten it.

"Q You just left it out.

"A I guess so."

I guess she just left out the extra $170.

"Q And Jout was paying the electricity sometimes, too, wasn't he?

"A Yes."

That is Carmen Miranda -- Chichita B nana. The shakedown.

My question:

"Q Did you tell Mr. Hittelman that Alice Aviles, in June of 1973, on the corner of of Delancey told you, Carmen Miranda, to get all the girls together who got married to Chinese guys to write down exactly how we got married so that we could

bs9

blackmail Gene Chu?

"A No."

Under oath, that she had not told Hittelman that, she didn't have anything to do with blackmail; Aviles had not said that to her.

I showed her the statement and I asked her the question on the very next page:

"Q Did you tell Hittelman that Alice Aviles on Delancey Street told you to get all the girls together to blackmail Gene Chu?"

And on the next page she says:

"Yes, I told him."

These people just don't care. Go to jail Gene Chu.

(Continued on next page.)

Hernandez: Elizabeth Hernandez can answer, "Yes, of course I met Gent Chu before I was married."

Remember, she was the girl down in Puerto Rico, you may remember -- remember she was interviewed on August 14 and she said, "Well, I told a lot of lies before,"because, you may recall, she said in that interview that her husband was playing around with another Chinese girl, so she went back on August 15 because she was in a little trouble, then she told all the truth.

She gets on this stand and sayd "I met Gene Chu before I was married."

On August 15, 1975 in Puerto Rico in a question and answer statement when she was telling the truth she swore under oath, she said she met him after she was married.

In the grand jury in this courthouse she was telling the truth she testified she met him after she was married.

Demonstrable false hoods, uncaring.

Do you remember her testimony, Chu called her to get her to coordinate the stories, meet at the airport, coordinate the stories, get everything lined up?

Mr. Sprizzo said, August 15, 1975, second interview by the immigration service you were going to

tell all the truth, and she testified Q and A under oath in Puerto Rico on August 15 "I called Mr. Chu in New York. He didn't want to speak on the phone." The very same conversation where she says here to you that Chu said "Let's get our stories together. We've got to get our stories together."

She tells immigration Mr. Chu didn't want to speak on the phone.

She told you, as these other girls told you, Gene Chu told me to make up stories, to tell lies.

August 15, Mr. Sprizzo had to bring this out, what do you do if you don't have a lawyer? August 15, 1975, referring to Mr. Chu, did Mr. Chu say he would tutor you on what to tell the immigration officers? Yes, he told me he would tell me the questions, just what Gene Chu said, he would tell me the questions that the immigration officer would ask me, and he would be with Perry and myself so we could go through with the procedures, and quote, "Gene Chu said he wouldn't teach me the answers. He wouldn't teach me the answers. "

Page 617, cross-examination, under oath in Puerto Rico, the second time, and la-de-da, who really cares, just a Chinese lawyer on this witness

stand "Gene Chu told me to lie."

On this stand "Gene Chu told me he knew from the beginning I was not living with my husband Perry." Again, it had to be Mr. Sprizzo -- I'll read his question:

"Q Is it your testimony through the entire period that you were dealing with Mr. Chu that you told him fromthe very beginning that Perry was not living with you, is that your testimony?

"A In the beginning, he knew that Perry was not living with me."

Essential to that case, that testimony, that Chu knew Perry was not living with her, and so she says it under oath on this stand, Mr. Sprizzo:

"Q From the very beginning, is that correct?

"A Yes."

Then he says:

"Q Did you tell immigration on August 15, 1975 the truthful statement under oath, 'The lawyer called me and he wanted to see me to see how everything was going, he figured Perry and I were living together and that everything was going smoothly'?"

Mr. Sprizzo said to Elizabeth Hernandez, "Did they," meaning immigration, page 629, a quote:

"Did they tell you you would be in trouble if

you didn't tell the truth according to them?"

And she said, "That's correct."

Then what you may find to be a lie with a real purpose, an obvious purpose you may find, she gets on this stand, Elizabeth Hernandez, and she says that Jimmy Yu said to her, "We have a lawyer working for us."

Conspiracy. "We have a lawyer working for us."

Again it's got to be cross-examination, it's got to be Mr. Sprizzo going back to August 15 when she's telling the truth back in Puerto Rico,and what did she say down there?

"Now, they mentioned a lawyer but it wasn't important. They didn't state he would be the lawyer, they just mentioned his name."

And she comes up here and gets on that stand and she raises her hand and she swears to God and she says, "Jimmy Yu said to me, we have got a lawyer working for us." And, boy, that puts the knife in you may find.

The truth according to them, Mr. Sprizzo said, is that what they said, and she said, "Yeh, that's what they said."

I'm using this so you know that I am giving

you the record in this case, not my recollection.

Cruz. When did Brian Yeung move out? She thought it was in 1974, the poor girl, she was living together, her child was being supported. You may find they had a better marriage than lots of us till a stranglehold came and they had to get divorced because you heard Brian Yeung testify in the grand jury, here, that he was still living with Imgard right through the day he testified in the grand jury here after Hittelman had gotten ahold of him, after he had come over here in the grand jury, and then he had to move out.

You remember that.

Poor Imgard Cruz had to say, '74 he must have moved out.

They told her, they told her, if you don't tell all, no more welfare.

Mr. Fan. You know, Mr. Chu met Mr. Fan twice after his divorce. Do you recall that testimony? I will read it to you -- it will take too much time, search your recollections.

While the immigration investigation was going on Mr. Fan bumped into Mr. Chu twice in Chinatown, twice.

Now, if Mr. Chu went up to Cobs Mill Inn to

tell Mr. Yeung to tell a lot of lies, which poor Mr. Yeung had to get up there and say, why didn't Mr. Chu, when he met Mr. Fan twice in Chinatown, tell Mr. Fan to tell a lot of lies?

Here it is, page 113. "I met him twice." Mr. Chu said, "I asked him what should be done and he said nothing much was happening. He said, did the immigration say anything, and I said yes, I told him what I have told them. That's that."

And poor Mr. Fan, who is Mr. Sneakers, they call him, he's going back to Hong Kong.

Barbara Harris. Seven or eight or nine meetings with Gene Chu, when she spoke to Hittelman it was only one -- remember that? Elizabeth Hernandez, "I talked over my testimony with Barbara Harris down in Puerto Rico, I told her I was afraid, I told her what I would say."

Barbara Harris, "Never heard of it." Remember that?

Mr. Chu -- Mr. Fan said Chu asked questions after marriage and Mildred said they were going to live at 2185 Valentine Avenue, page 125 of the record. Page 138 of the record, Chu didn't tell Fan how to answer the questions. Page 160, he wanted to live with Mildred.

Page 145, INS told him they wanted to make a case on a lawyer.

Mr. Yeung. Chu told him he thought he was being an investigator and therefore he wouldn't talk to him. Remember that testimony? Yeung met Chu, had to come back a week later, Yeung says under oath here, and the poor Chinese fellows, Chu told him he wouldn't speak to him at first, wouldn't make any promise becuase he thought Yeung was an investigator. Never told Hittelman, never told the grand jury. Can you imagine Mr. Chu thinking Mr. Yeung was an investigator?

You may find that Mr. Chu didn't represent Mr. Yeung because Mr. Yeung had come in alone and was not sponsored by anyone Mr. Chu knew and upon whom he could rely. As a matter of knowledge and decency and judgment in making a determination as he did -- these people meant what they meant.

Mr. Yeung, Gene Chu told me to make up a story, never told Hittelman that, never told the grand jury. Mr. Yeung, he would not have married Imgard, didn't want to marry Imgard because she had a baby. Never told Hittelman, never told the grand jury.

Mr. Yeung made a slip. I want you to, if you

will, to remember this slip: I asked Mr. Yeung, you may recall -- I don't have it marked -- didn't you give a truck to the little boy, the baby, at Christmas? Try to remember that, of ask to have it read to you. Didn't you give a truck to the little boy?

And Yeung said, no, that was the story that Imgard and I made up. You may recall that I puased for quite sometime "No, that was the story that Imgard and I made up." Little glimmers of truth.

I asked him, did Mr. Chu tell you to say that, that you had given a truck to the boy? And he said no. That was a story that Imgard and I made up.

Mr. Jout, Mr. Jout never asked the immigration service for assurances that he would not be prosecuted, they just wrote down that he had asked them that. Do you remember that testimony? Didn't you ask immigration for assurances? No, I didn't. Does this refresh your recollection? They wrote it down that I had asked but I didn't ask.

Of course, Mr. Hittelman had to admit yes, that Mr. Jout had asked for such assurances.

Ask yourself why Mr. Jout was afraid to say, sure, I asked him for assurances. Could it be, you may find, because he got them, becasue he's going to be

hanging around until his sister becomes a citizen, because he really played the game, because when he heard of the Aviles threat, that she was leading the girls, he called his lawyer in North Carolina and five days later was at immigration?

He got on the witness stand and he swore under oath that Chu had told him that Carmen Miranda was a homosexual. He never told Hittelman, he never told the grand jury. He got on the stand and he said that Mr. Chu had told him to make up a story about how he met Carmen. He never told Hittelman. He never told the grand jury.

Remember Mr. Kingham getting up and saying so stipulated, it'snot in the statement. So stipulated it's not in the statement?

The divorce papers. My sister said I want divorce papers so this girl can't extort him. Did you ever once ask Mr. Chu where the divorce papers were? No, I never asked Mr. Chu where the divorce papers were. I just went in and got married.

What stories you may find people will tell when they are told they will not be prosecuted so long as they tell the truth, according to them.

It may be hard to understand this, it may be

hard to realize that such a thing can go on, and on April 2nd -- you know, sometimes you get a break you may find.

(Continued on next page)

Q On April 2 -- you know, sometimes you get a break. Remember I took all thattime with Jout remember he told immigration that on April 2 Gene Chu had stayed with him during the entire interview, four, five hours. Then when I cross-examined, he admited Gene Chu hadn't stayed with him, he left early.

I questioned him. He said "No, 1 o'clock Gene Chu left." He had to keep Gene Chu there April 2. He had to keep him there. Do you remember that testimony?

You must have wondered why I was taking the time. 1 o'clock. 1 o'clock, 1 o'clock. Thank God a piece of paper could be found so that Gene Chu could prove that he had had a closing in Astoria in Long Island City at 12, which couldn't be postponed.

A demonstrable, demonstrable, demonstrable lie, demonstrable falsehood on that stand.

You may find that it was told for a purpose: To make a case on a lawyer. What a break for justice that Gene Chu kept this file and this letter so that Mr. Kingham couldn't say he was lying about that too. Consider this, decide the case on this, if you want.

Everyone in this case said that Gene Chu told them to make up a story about how they met, except

two people, and those two people were Fan and Mildred Miranda. Neither Fan nor Mildred Miranda told that story.

Fan said, "Do you recall what the questions were," this is the preparation, Chu asked him his age, where he was staying, working, those are the answers he gave. That's it for Fan.

The same for Miranda. Neither Fan nor Miranda told that story about Gene Chu telling the spouses to lie about where they were living. Remember, no one of those spouses had ever said that until they got here at this trial. No one of those spouses, not a single one of those spouses had told Mr. Hittelman or had told the grand jury that Gene Chu had told them to make up a story about where they had met. It was only when they came to this trial that the refrain started:

"Gene Chu told me to make up a story as to where we had met. Gene Chu told us to make up a story as to where we had met. Gene Chu told us."

Except Fan didn't say that and Miranda didn't say it, and wouldn't you know that if you look at the notes of their interview at INS, the I-130 interview at INS, and if you have read the testimony of the

woman who interviewed them, you will find that at that interview they were not asked where they met. All the others were asked where they met. Fan and Mildred were not. Each of the other spouses told a lie and Gene Chu said he knew it was a lie, and he said he was their attorney.

All the other spouses said Chu told them to tell that lie. Why would Gene Chu tell all the other spouses to tell a lie about where they had met and not tell Fan and Mildred to tell a lie about where they had met? If you can answer that question, you can convict Gene Chu. Or does it make more sense to your common sense that in the other interviews the witnesses had told lies or the spouses had told lies about where they had met, and our great govenment was anxious to tie Gene Chu to those lies, because the charge in this case is not that those people told lies, not that he remained silent as their attorney when they did tell lies, the charge in this case is that he told them to tell lies, and that is the only charge, plus the false statements.

None of the spouses told Hittelman, none of the spouses told the grand jury. The only spouses that say Gene Chu told them to tell that lie are the spouses who told thelie. The two spouses who weren't asked

where they met, they don't say anything about Gene Chu telling them to tell that lie.

You ask yourself again as honest people, if Gene Chu is in the business, if it is so important to tell people to make up a story about how they met, how did he ever forget to tell Fan and Mildred? That is not rhetoric. Just answer that question.

Nobody ever said to Hittelman that they had seen anyone give Jean Fong money in Gene Chu's presence. But they said it here. See how relevant that is, if it is a lie.

"Tommy Hu told me that we had a lawyer working for us." A demonstrable lie.

"We saw Jean Fong get money in Gene Chu's presence." Never told Hittelman before.

You see how that makes a conspiracy. Remember Alice in Wonderland? What webs we weave when first we practice to deceive.

The extortion, ask yourself why Mildred Miranda shook her head "No, no, no, no," before I had even finished the question, and at first denied knowing anything about it.

Ask yourself why Carmen Miranda denied telling Hittelman that Alice Aviles had asked her to join

a blackmail plot.

Ask yourself why Torres hid from it and said "I heard, but that is all."

Guilty consciousness, guilty consciousness.

(Continued on next page)

Why are they afraid if it isn't the truth? What could they do? What did Gene Chu have to fear? Just what they did do, because, as I said, by June, 1975 he had some reason to believe that these girls were not what he had thought they were, as you may well have had some reason to believe on cross-examination when their anger and in some instances their rage showed that they were not quite the girls you might have thought they were when they first came on the stand with their little smiles and "No, your Honor, that's just the way I talk." Sweetness and light.

What would you think of us if we put witnesses in a room and locked the door and said, "You can come out when you tell the truth according to us"? What would they think of us? Ask yourself what they would do to us.

Where are the other crooked marriages? Mr. Kingham examined Mr. Chu about other marriages, other I-130 petitions. Gene Chu made a mistake about these girls. Ask yourself if maybe you wouldn't have made the same mistake, seeing them on direct with their sweentess. You may find he really didn't make a mistake about the men, except maybe Mr. Jout found a better way.

Where are the other marriages, if Gene Chu is

a crooked lawyer? Cruz and Yeung? They were living together.

"Dear Mr. Gary Hittelman, Mr. P. Candemeres:

"How are you both? First of all, I thank you again your kindness. This is a few words to let you know. I moved out from Bronx to Connecticut. I live in a cottage, Cobs Mill Inn. If you want me to go down to your office, I would like to do any time. About the 'divorce,' I am not yet to do that. Yours sincerely, Brian Yeung."

You may find what degradation.

Kingham says:

"Mr. Yeung, didn't they tell you to keep in touch with them as to what your address was?"

Did they ask Mr. Yeung to have them up so he could cook them a meal? Poor guy.

"Did you give a truck to your boy?"

"No, that was a story that Imgard and I made up."

The truth does come out.

You know, sometimes it is not bad being a lawyer. Why didn't they bring out that Fan loved his wife? Why didn't they bring out that this wasn't said to Hittelman

and this wasn't said to the grand jury, that Yeung called Cruz' boy his stepson, that Cruz found Yeung to be an affectionate father and an affectionate husband?

All the lies, all the inconsistencies, why do we have to do it? You look in your own hearts, you may find it shocking, but you may find this to be a vile, wicked case, a target case, an example case, brought to show the world.

It may happen inadvertently with calloused, uncaring witnesses of the type you saw, but you ask yourself if you expect the Government that you pay for to go around and say "Tell us the truth as we see it. Come forward or you are out of your welfare. Go to Hong Kong."

You are the United States of America, so am I. You do what you want with the case. The law says that he is presumed innocent, the law says they have to prove his guilt beyond a reasonable doubt. His Honor will instruct you. They start this case on the 20-yard line. They have to move the ball.

They moved it with what you may find, and I suggest they have not moved it at all, they moved it with a pack of lies, with a design. How far they have to move it is a matter for your conscience. Mr. Sprizzo and I go on, but we live in this system. You leave

us some respect for it.

THE COURT: We will take our afternoon break now, ten minutes.

(Recess.)

MR. KINGHAM: Your Honor, may I proceed with the rebuttal?

THE COURT: Please.

MR. KINGHAM: Ladies and gentlemen, you want to look at cows? I will show you a cow, the whole cow. Look at the cow that is in the defendant's pasture. Let's look at what he says his side of the cow is. That is in here, in the record, on direct examination.

He says, "I believed these were good marriages."

Mr. Fleming tells you that's what his client says. He says on direct examination, "I never told anyone to lie or to make a false story."

Now let's look at the other side ofthe cow that is in the defendant's pasture. He says, "I postdated notary statements and I told the INS I notarized on one day with these people in my office when in fact they were not in my office that day, but two days before."

He tells you he delivered $1500 cash to everybody except Lisa Hernandez, and he tells you that "I knew

5hs

that Jout and Miranda had lied during their first Immigration interview." He says, "I let them continue to lie during the interviews a year later."

Mr. Fleming says, "Did we," meaning the defense, "hide anything on direct examination?"

MR. FLEMING: Your Honor, I object to the statement, "He allowed him to lie a year later." There is no evidence to that in the record. I also believe this is not proper rebuttal.

THE COURT: I think it is proper rebuttal. I assume you referred to the Q and A examination?

MR. KINGHAM: I am referring to the 1975 interview, your Honor, the April 7, 1975 interview of that couple, and the defendant's testimony concerning that.

THE COURT: The interview before Mr. Hittelman?

(Continued on next page.)

MR. KINGHAM: No, your Honor, before the investigators -- well, the fraud investigators later on in April of 1975, where Mr. Chu testified that he accompanied the couple. I believe the record speaks for itself on that.

THE COURT: Proceed.

MR. KINGHAM: Mr. Fleming says the defense did not hide anything on direct examination.

If you have any questions, ladies and gentlemen, ask to have read back the defendant's testimony on direct examination and see whether or not he testified about knowing, in April of '75, that his clients had lied back in April of '74. You will find from that testimony that there is not a word about it, and it took cross-examination to get that from the defendant.

Mr. Fleming asked you a question in his summation, and that question was this, he said, do you recall, and I quote:

"Why would Gene Chu tell all the other spouses to tell a lie about where they had met and not tell Fan and Mildred to tell a lie about where they had met?"

And he says:

"If you can answer that question, you can convict

Gene Chu."

If you want to answer that question, ladies and gentlemen, the answer to that question is on page 91 of the record of trial in this case from the very first witness, and you can convict Gene Chu on that testimony, because the answer to that question is, from Mr. Fan:

"Q Where was Tracy's sister when you met her?

"A In Jean Fong's place."

The reason, ladies and gentlemen, that Mr. Chu did not have to tell them to make up a story about where they had met is because there is no problem with where they had met. They were the only couple he took for an interview who had not met in his office.

There is the answer to your question, and there is your conviction of Gene Chu.

You ask yourselves, ladies and gentlemen, if the defense arguments about credibility, about Mr. Chu's credibility, make any sense to you.

The key to this case is whether the defendant knew that those spouses were going to live together as husband and wife or whether they intended otherwise.

It is easy for the defendant to say on the stand and in argument that he thought the spouses were

living together, but that does not get him off the hook. He's got to think the spouses are living together and intend to live together as a husband and wife in a bona fide marriage.

MR. FLEMING: I understand your Honor will instruct the jury on the law.

THE COURT: Yes, I will.

MR. FLEMING: I object to that.

MR. KINGHAM: I don't mean to impinge on his Honor's province in instructing the jury, and you listen to those instructions and determine for yourself what Mr. Chu's intent was.

What does Mr. Concannon say about Jean Fong? He says look at the Government's perspective in the case, perspective to show guilt.

I suppose the Government is supposed to ignore all the evidence that points to guilt in preparing the case.

He says there is a conspiracy charge, and there is, and he says the conspiracy came about in some dark seedy corner. There is no dark seedy corner. The conspiracy is at 169 Allen Street, at 9 Division Street, over in the Immigration offices, City Hall, the True Light Lutheran Church. This isn't television.

This is real life, ladies and gentlemen, and we are dealing with people who get together and go into a criminal enterprise and try to defraud and fake out the Immigration Service.

Mr. Concannon suggests one other thing to you, he asks you, if you find whether Jean Fong knew or thought or believed that these marriages were anything other than marriages, of trying to get people, young ladies who might have had problems, together with men who would be stable, good providers and so forth.

Well, if you have any question about that, ladies and gentlemen, ask for the testimony of Frances Torres to be read back to you, because she shows that Jean Fong was present at a conversation in Gene the lawyer's office at which Frances was told that she would be divorced after a year or so when the man's green card came.

Then ask yourselves that if Jean Fong was not in this agreement, this criminal venture, why, even after knowing that that was the plan, did she go ahead and solicit other girls?

MR. CONCANNON: I object to that. There is no indication in the record any place that she ever solicited girls.

If anything, they were brought to her apartment by someone else.

THE COURT: The jury will determine what the evidence shows.

MR. KINGHAM: And you determine whether Jean Fong, ladies and gentlemen, after hearing that conversation about later divorce, didn't bring Tracy to Gene Chu's office for the purpose of getting her married for money.

The Government does not have to show here that she was present at Immigration when the false statements were made. You will realizse that when you hear the Court's instructions, but we must prove, and we have proved, that she knew the purpose of the scheme; that she was part of the agreement and that acts were done in furtherance of that agreement, and that she meant to do it; that she helped these people in their scheme to defraud the United States.

How about Jimmie Yu. Why did he do it? Friendship; no question about that. Any lesser crime? Certainly not.

But he was present at conversations about divorce, too, the conversation that his friend Mr. Jout had, and he knew Jout was not living with his wife --

MR. BARRY: Your Honor, I object. There is

no evidence that he was ever at any conference where divorce was discussed.

MR. KINGHAM: If I might cite the Court and the jury, your Honor, to pages 377 and 379 which point out unequivocally that Mr. Yu was present during the first meeting at which time the question of divorce was raised by Yar Lee Fu, Mr. Jout's sister; it is right here in the record.

How about the money he paid to Tracy. He gave her a check all right, but she wasn't to take the check with her, she had to sign the check right there in the restaurant and get cash.

Can there be any question he knew what was going on? He asked Tracy to go out and get a girl for Perry. He paid Lisa Hernandez the money. Why? Because Lisa was nice or because this was part of a conspiracy to defraud?

Now, as predicted, the defendants have made much of the question of credibility of the Government's witnesses.

In my opening, ladies and gentlemen, I told you we did not bring you angels or boy scouts or church deacons. Mr. Glaser and Rydell, they were not in Gene Chu's office when these conversations took place. Sure his reputation

bs7

in Forest Hills is tremendous, but his reputation in Forest Hills was not made in his office, it was made in the church and at the boy scout meetings. But this case happened a few blocks from here in Chinatown and at the Immigration Service.

The Government witnesses were there, as I said, when the deal went down. What is their motive to lie, to lie to you now in this trial? That is the question for you to determine; have they lied to you about their conversations and their dealings with these three defendants? What is their motive? Because they won't be prosecuted in connnection with the marriage scheme?

You know they can be prosecuted for lying under oath before Judge Conner in this courtroom.

Deportation? You heard they are not getting any help in connection with deportation proceedings, the Chinese aliens. In fact, Mr. Chu himself admitted that Brian Yeung was scheduled for voluntary departure even at the time Mr. Chu met him.

Has the prosecution in this case done anything to help Brian Yeung's voluntary departure?

Help for Frances Torres in New Jersey? Nobody got her off those charges. Had her arraigned

because there were warrants outstanding; brought her before the bar of justice and she was released to go back to court another day.

Did the Government help her out on the charges or help the Court in New Jersey to find somebody they were looking for?

Mr. Fleming, Mr. Concannon adopt a very easy tactic, ladies and gentlemen, and that is the best defense is a good offense; try the prosecutor, try the agent.

You were here when we tried the case, when we tried the evidence. Are you going to believe that this is a case about a young Immigration Service investigator who shaped testimony, told people to lie; about Government prosecutors who, in preparing witnesses for trial, had them get on the stand purposely not tell the truth; are you going to believe that?

If you do, you acquit these defendants right away.

That is not what this case is about. You are too sophisticated to follow that kind of defense ploy. It is the only octopus trick. When an octopus gets cornered, he squirts ink and off he goes. So you try the prosecutor, you try the Immigration Service, the investigator, and the jury won't see the case, you see.

How about the blackmail? Mr. Fleming talks about this blackmail attempt. Did you hear one reason in Mr. Fleming's summation why Gene Chu did not go to the authorities, one reason? An attorney, an officer of the Court shaken down in what he told you from the witness stand was a false blackmail attempt.

Did you hear one reason, either from him or during defense counsel's summation, as to why he did not go to the cops?

You know, maybe if it was just Frances and Tracy and maybe Mildred, maybe you could believe that the three of them had gotten together with Alice to frame the defendant, if it was just them. But even the defendant himself, ladies and gentlemen, admits that Mr. Jout, Mr. Yeung, Mr. Fan, Lisa Hernandez, Imgard Cruz, Barbara Harris, don't have anything to do with the blackmail attempt. So why are they lying? You determine if they are.

You know, people don't lie without good reason. You have to do something very difficult in this case, because although often we talk in summation about common sense, and you may hear references in the Court's instructions to common sense, in your every-day lives, and applying common sense, you have to do something in this

case that not everybody is called upon to do. You are going to have to determine whether or not somebody is lying to you; whether or not Mr. Chu is telling the truth from the witness stand about what he says; whether or not the Government witnesses are telling the truth, and that is a tough thing to do.

When you do that, consider this: People are not going to lie just to lie. They have to have a pretty good reason, and in 1973 and 1974, and a part of 1975, the Government's witnesses told lies, and they told lies to the Immigration Service, and the reason they told lies is the women had been paid to tell lies; money they got from the defendant's own hand, $1500 a clip, and the men were telling lies so that they could get the dearly cherished permanent residence -- that is a pretty good reason for those people to tell lies.

Do they have that kind of a motive now? Ask yourselves that. Ask yourselves about the inconsistencies. Of course there are inconsistencies between the Government's witnesses. There are inconsistencies between their testimony at trial and their prior testimony, and usually when we are talking about inconsistencies, under very skillful cross-examination of Mr. Sprizzo and Mr. Fleming, it was that in a prior statement the witness

had not testified to something he was testifying to in court.

Usually those statements had been given about a year ago or a little less than a year ago. But, you know, ladies and gentlemen, you are people and you know people. You know that people are not machines, they are not computers, they are automatons, they don't remember everything all the time, their memories change, recollections are refreshed. Even Mr. Chu had his recollection refreshed on the witness stand with documents.

Mr. Chu testified in connection with where he was on a certain day. Then in preparation for this trial he had refreshed his recollection through some documents.

The witnesses gold you in their testimony that the more they were required to think about what happened the more they remembered. In fact, Frances Torres told you she remembered more as she was being asked questions by Mr. Sprizzo.

You talk about common sense. Doesn't common sense tell you that that is what happens with people, that they do remember more the more you ask them?

So you ask yourselves whether they purposely got on that stand and lied or whether they had previously either made mistakes, not remembered, not been asked the

bsl2

question, and therefore did not testify exactly the same way on a prior occasion.

Obviously, ladies and gentlemen, you only expect people to testify to the best of their recollection, and it is up to you to determine the best of the recollection of the witnesses, including Mr. Chu, at this trial.

One way to tell if a witness is tellng the truth, I suggest to you, is whether or not he hasd been corroborated by other evidence.

The three of the five marriages in this case, rhe spouses corroborate each other. Lisa Hernandez is corroborated in part by Barbara Harris. All of the witnesses are corroborated in great part by the defendant, except you may find here that the defendant conveniently denies anything that will show that he knew the marriages were phony or he conveniently does not recall.

I ask you this, ladies and gentlemen, can all of the Government witnesses be lying about the things the defendant's testimony disagrees with them on, and at the same time be telling the truth about all the things that he agrees with them on?

Of course, I submit that you will find that the only real disagreement between the testimony of the defendant and the Government witnesses is on the conversa-

tions and the facts which you will find show that he is guilty. He can't admit those facts.

You talk about a made case. Who made the case against this lawyer, and who made the case against Jimmie Yu and Jean Fong, who made that case?

In 1973, '74 and '75, Gene Loy Chu made the case against himself and he made the case against himself right here in this trial, and if you don't believe it ask to have the record read from 843 to about a thousand and see if he did not make the case against himself.

There is no need for an Immigration investigator to make the case against the lawyer. You know he is going to get paid whether he comes to court or not. That has nothing to do with this case.

These defendants made the case against themselves.

You are going to see through, ladies and gentlemen, through the false testimony of this defendant Gene Chu on the witness stand, and you are going to see through to the truth, and when you do that you are going to convict Jean Fong and Jimmie Yu and Gene the lawyer.

Thank you, your Honor.

THE CLERK: The Court is about to charge the jury. Any spectator desiring to leave will do so now or remain seated until the completion of the Court's charge.

THE COURT: Ladies and gentlemen of the jury, you are now about to enter upon your final functions as jurors in this case, and that is to decide the facts of the case.

You are the sole and exclusive judges of the facts. You alone pass on the weight of the evidence and the credibility of the witnesses, and you alone determine the reasonable inferences and conclusions to be drawn from the evidence.

It is my duty now to instruct you as to the applicable law, and it is your duty, indeed, your sworn duty, as jurors to accept these instructions and to apply them to the facts as you find them.

Your verdict is the logical result of applying to the facts which you find in your deliberations the legal standards which I give you in these instructions.

In your determination of the facts, you should rely solely upon your recollection of the evidence. What I may have said from time to time during the trial, and what I say now in these instructions, and what counsel have said during the trial and in their openings and closing statements, is not evidence in the case.

The only evidence upon which you should base

your verdict is the testimony of the witnesses from the stand, the exhibits that have been introduced into evidence, and the stipulations or agreements of fact entered into by the attorneys.

Anything that I may have said in ruling upon an objection is not a matter which you should consider in determining the facts. My rulings only relate to matters of law, which need not concern you at all in your determination of the facts.

You should draw no inference as to how I feel about the merits of the case, from anything that I said at any time during the course of the trial, either in ruling on an objection or in commenting upon a motion of counsel, or at any other point. The things that I said were purely matters of law and need not concern you in your determination of the facts.

Ladies and gentlemen, the arguments made by counsel, and the objections made by counsel are mere matters of law which need not concern you in your determination of the facts.

From time to time I may have asked questions of the witnesses. Any time I asked a question I did so only because I thought if I didn't the record might be left unclear or confusing. I didn't intend, and hope that

I didn't, to give you any impression about how I feel about the case from the fact that I asked a question or the nature of the question asked.

Your verdict should be based upon the evidence and upon the reasonable inferences that you draw from the evidence. However, it should not be based upon speculation or conjecture. You should consider both direct evidence and circumstantial evidence. Direct evidence is, for example, testimony given by a witness who saw a thing or an event, and who testified as to what he saw or heard, or an exhibit which is introduced into evidence and which establishes certain facts.

Circumstantial evidence, on the other hand, is proof of one fact which, because of its logical relation to another fact, tends to show the existence of the latter fact.

The law makes no distinction between the weight to be given direct evidence and that to be given circumstantial evidence. Both should be considered by you in determining your verdict.

Here, as in every criminal case, the United States Government is in the position of a complainant making an accusation or charge against the defendant. It makes this charge or accusation in the form of a paper

called an indictment.

The indictment is not evidence in the case, it is merely a formal statement of the charge; it is the instrument which gets the trial proceedings started; it states what the government expects to prove at the trial, and it puts the defendants on notice of what they will have to meet at the trial. There is no presumption that the charge is correct.

The defendants in this case have all entered pleas of not guilty to the charges in the indictment and they have, therefore, placed the b rden on the prosecution to prove their guilt. That burden is a heavy burden for the government must prove that the defendants are each individually guilty to your satisfaction beyond a reasonable doubt.

The burden never shifts to the defendant in a criminal case. The defendants may stand absolutely mute or silent. They do not have to introduce any evidence of any kind, and they do not have to take the stand and testify in their own defense.

The law presumes each of them to be innocent of the crimes with which they are charged.

The presumption of innocence remains with the defendants throughout the trial and throughout your

deliberations in the jury room, up until the point where you are satisfied that a particular defendant has been proven guilty of a crime charged beyond a reasonable doubt.

The failure of a defendant to testify does not create any presumption against him. He has an absolute right not to testify and that right would be worthless if you could assume from the fact thathe does not take the stand that he must have something to hide.

The government has the burden of proving him guilty beyond a reasonable doubt. He has no burden at all.

What is a reasonable doubt? The words almost define themselves. It is a doubt based on reason, arising out of the evidence in the case or the lack of evidence. It is a doubt which a reasonable person has after carefully weighing all the evidence. It means a doubt that is not shadowy or vague but substantial.

Beyond a reasonable doubt does not mean to a positive certainty or beyond all possible doubt. If that were the rule few men, however guilty, could be convicted. It is practically impossible for a person to be absolutely and completely convinced of any

controverted fact, which, by its nature, is not susceptible of mathematical certainty.

In consequence, the law in a criminal case is that it is sufficient if the guilt of a defendant is established beyond a reasonable doubt,not beyond all possible doubt.

If, after a fair and impartial consideration of all the evidence, you can candidly and honestly say that you are satisfied of the guilt of a defendant to the extent that you have an abiding conviction of that defendant's guilt, such conviction as you'd be willing to act upon without question in important and weighty matters in your own life, then you have no reasonable doubt, and in that circumstance it's your duty to find that defendant guilty of that charge.

However, if, after a fair and impartial consideration of all the evidence, you cannot candidly and honestly say thatyou are satisfied of the guilt of the defendant, that you do not have abiding conviction of his guilt, then you do have a reasonable doubt and in that circumstance it is your duty to find him not guilty of that charge.

Putting it more simply: If in your own private lives you are confronted with an important

decision, and after reviewing all of the factors that relate to that decision, you are beset by uncertainty, you are unsure of your judgment, then you have a reasonable doubt.

Conversely, taking into account all of the factors that bear on the problem, if you have no uncertainty and no reservation about your judgment, then you have no reasonable doubt.

You must not be influenced by the fact that the government of the United States is a party to this action. I charge you that the government is to be considered the same as any other party, and the United States Attorney, and his assistant, who has tried this case, should be considered by you just as you would consider counsel for any other party.

The indictment in this case contains a total of ten separate counts, or charges, each of those ten counts must be considered separately by you and you must render a separate verdict of guilty or not guilty on each of the ten counts.

Now, all ten counts aren't charged against all three defendants, only the defendant Gene Loy Chu is charged on all ten counts. The other two defendants are charged only on the first count.

Count 1 charges the defendants Gene Loy Chu, Jean Fong and Kuo Ping Yu, also known as Jimmy Yu, with participating, along with other persons, the married couples, in a conspiracy, or criminal agreement, to defraud the United States and to violate certain federal criminal laws, which make it a crime to file false documents with agencies of the federal government.

Count 1 is thus referred to as the conspiracy count.

The other nine counts of the indictment are what we call substantive counts, that is, they charge actual violations of the law by Gene Loy Chu.

Counts 2 through 5 charge Gene Loy Chu with filing documents with the immigration service, the I-130 petition, knowing that they contained false information.

Counts 6 through 10 charge him with corruptly attempting to influence persons who are to be witnesses, or who were to be witnesses at the Immigration and Naturalization Service proceedings for the purpose of inquiring into the nature of the marriages of the couples in question.

The guilt or innocence of each of the three defendants must be determined separately and your verdict with respect to each of those three defendants must be

determined by you irrespective of your verdict against the other two defendants.

You must not permit yourself in considering the evidence to treat the three defendants as a single entity or unit. You are required by law to consider the guilt or innocence of each of them individually and distinctly from one another.

Moreover, the fact that you find one of the defendants guilty on some or all of the counts aginst him creates no presumption of the guilt of either or both of the other defendants.

Before turning to the specific counts in the indictment, it may be helpful briefly to review some of the procedures having to do with Immigration and Naturalization. Ordinarily each citizen of a country who travels outside the country must have a passport. A visa is a statement by a consul or officer of a country which an alien wishes to enter. The visa means that the passport of that alien has been seen and approved and that the alien may enter the country.

If an alien wishes to enter a country for only a visit, the visa is usually stamped in his passport and, as you probably know, some countries do not require visitors from certain other countries to have

visas at all. If an alien wishes to enter a country to take up permanent residence, the visa is often a separate document to be presented with the passport when he enters.

Now let's concentrate specifically on entry of aliens into the United States. To enter the United States an alien must have a valid passport from his own country and a visa issued by a consul of the United States. Since the only consuls of the United States are in foreign countries, it follows that a visa from a United States consul can only be obtained at one of the U. S. consulates abroad.

There are two kinds of visas: An immigrant visa and a non-immigrant, or visitor's visa.

An immigrant visa, or green card, is required to be held by any alien entering the United States to reside here permanently.

The immigrant visa is not only essential for entry as a permanent resident, it is also essential for becoming a citizen by naturalization, because the residence requirements for naturalization can be satisfied only after the alien has been lawfully admitted for permanent residence.

A non-immigrant visa is issued to visitors

whether for business or pleasure, students and the like, who do not intend to make their permanent residence here. The requirements for an immigrant visa are much more stringent than those for a non-immigrant visa.

At all the relevant times in this case, immigrant visas for entry into the United States for permanent residents were restricted under a quota sustem whereby a fixed number of aliens from different countries might be issued immigrant visas during each year.

This quota system didn't apply,however, to an alien married to a citizen of the United States. The alien spouse of a citizen of the United States might obtain an immigrant visa and be admitted to this country as a permanent resident without a quota number, and without regard to whether or not the yearly quota had been exhausted.

This type of immigrant visa is therefore sometimes called non-quota.

An alien who marries a citizen of the United States thus has a substantial advantage in obtaining permanent residence in the United States. There is another advantage which such an alien has.

Having been admitted for permanent residence, the alien who married a citizen may become a citizen by naturalization after a residence of only three years as opposed to the normal period of five years.

The procedure which a male alien who marries a United States citizen must follow to obtain permanent residence depends on whether he originally entered this country illegally or whether, having entered legally, he thereafter remains here illegally.

I should restate that: Depends on whether he originally entered this country illegally or, having entered legally, thereafter remains here illegally. An alien can come into this country in several different ways. He can enter this country originally with a visa as a student or visitor.

Joseph Jout testified that he came here on a visitor's visa, for example. If the alien is the member of a crew of a ship, he may receive what is called

a D1 landing permit, which entitles him to remain in the country for [illegible] or until his ship departs, whichever occurs earlier. If such an alien crewman does not depart with his chip or if he stays here longer than 29 days without obtaining permission to do so, then he is here illegally.

If a male alien had been a crewman and remained in the United States illegally, such as Fan Wun Chiu and Brian Yeung did, and thereafter married a citizen, the procedure for obtaining an immigrant visa for him would then be as follows: The citizen wife would execute under oath a petition called "A petition to classify status of alien relative for issuance of immigrant visa." Forms for these petitions, which are designated I-130 forms, are supplied by the Immigration and Naturalization Service.

The I-130 petition contains a number of items of information about the wife, such as how her citizenship was acquired, items about the alien husband, the marriage, and at what consulate abroad the alien will apply for a visa.

Among the information required is the then address of the alien and the address in the United States where the alien will reside. The petition is

submitted to the Immigration and Naturalization Service, and if approved is signed by the proper official of the service and sent to the Department of State as authority for a consul to issue the immigrant visa.

The citizen wife is notified, as is also the lawyer for the couple, if a lawyer has filed with the service what is called a notice of appearance, which is merely a notice that a particular attorney will act in representation of the couple in connection with the petition.

Usually a visa petition is filed for an alien crewman and the alien husband surrenders himself at the office of the Immigration and Naturalization Service. He is then placed under deportation proceedings as an alien illegally in the United States. A deportation hearing is scheduled. The alien is questioned about his immigration status.

The alien may apply for the privilege of voluntary departure instead of deportation. Such an alien who is in the country illegally is barred from adjusting his status while remaining in the United States.

If the alien applies for the privilege of

voluntary departure and such application is granted by the service, he must then leave the United States and go to the consulate indicated in the citizen wife's petition. At the consulate the alien husband executes under oath an application for an immigrant visa, an alien registration on a form supplied for the purpose by the State Department. This application for an immigrant visa must be supported by various documents.

If the application is granted, the consulate issues an immigrant visa which permits the alien to re-enter the United States lawfully as a permanent resident.

The alien, with his passport and the visa, then presents himself at a port of entry to the United States and the immigration service admits him. If an alien is in the United States after being admitted as a visitor, such as John Jout, and is thus here legally, and he then marries a citizen of the United States, the procedure is usually different in that such an alien is eligible to adjust his status here and without leaving the United States and later returning. This procedure is called adjustment of status of non-immigrant to that of a person admitted for permanent residence.

If an alien husband of a citizen of the United

States is in the United States and wishes to change his status to that of a permanent resident, the wife executes under oath the same form I-130 as if an immigrant visa were sought. The alien husband later executes under oath an application for status as a permanent resident on a form supplied by the service and designated form I-485.

If the service approves the change of status of the alien husband, the approval is made by memorandum of creation of record of lawful permanent residence issued by the service. After issuance of such a memorandum, the status of the alien is exactly the same as if he had gone out of the country, secured an immigrant visa and re-entered on that basis.

From this rather long-winded explanation of immigration procedure, you may see that Congress had enacted laws which give certain preference and advantages to alien husbands or wives of citizens of the United States. Congress intended that these preferences and advantages would be available only to those whose marriages to an American citizen were entered into in good faith, that is where the two parties to the marriage really intended in good faith to establish a life together, to assume the normal duties of husband and

wife.

Marriages entered into solely to obtain immigration benefits, with no intention on the part of the spouses to enter into a real marital relationship are not considered bona fide or good faith marriages under the immigration laws.

I should tell you that there is no issue here about the validity of these four marriages under the New York State marriage laws. The government agrees that under New York State law the marriages were valid. That is, the parties got a marriage license and they went through a marriage ceremony.

That's not the issue which you need to determine here, although, obviously, it is a factor you can take into consideration in determining whether or not the marriage was bona fide for purposes of obtaining permanent residence.

Instead, what the government charges is that the marriages, whether valid under New York State law or not, were sham, spurious, phony, pretended marriages, which were entered into solely to qualify the alien husbands for permanent residence, and ultimately for a citizenship by naturalization.

So the critical issue that you must determine

or one critical issue, I should say, which you must determine is whether the marriages in question were bona fide. In determining that issue you should consider all of the factors surrounding the marriage.

For example, you should consider whether the persons who were married intended to share a life together as husband and wife and whether they intended to assume the mutual responsibilities and obligations of husband and wife.

There has been proof in this case that certain of the spouses were paid sums of money for entering into the marriages and thatthe husbands who were Chinese aliens entered intothe marriages with at least one purpose of obtaining permanent resident status.

As I instructed you at the outset, the mere fact that a person is paid for entering into a marriage does not mean that the marriage was not bona fide, and the mere fact that one of the parties has as one objective of the marriage the application for permanent resident status and ultimately for citizenship by naturalization does not in and of itself make the marriage a marriage in bad faith.

However, these are factors which you should consider, along with all of the other factors, in

determining whether the marriages were entered into in good faith.

I want to further tell you that there is nothing illegal about being a marriage broker, about arranging marriages, or receiving payments or gratuities for introducing people for purposes of marriage. However, the fact thatmonies were paid to a person who arranged introductions is a factor which you can consider, along with all of the other evidence in the case, in determining whether or not the marriages were bona fide.

Even if you find that the marriages were spurious and a sham, you may not convict any defendant in this case unless and until you find beyond a reasonable doubt that that particular defendant knew that the marriages were sham and spurious and that the defendant intended to defraud the United States by means of such a sham and spurious marriage.

Now let's turn to the indictment itself. I repeat to you, the indictment is merely a formal charge, a statement of what the government expects to prove against these defendants.

The indictment reads in part:

"The grand jury charges:

"1. The defendant Gene Loy Chu at all times

relevant to this indictment was an attorney duly admitted to practice before the courts of the State of New York and before the United States Department of Justice, Board of Immigration Appeals and Immigration and Naturalization Service."

I think there is no substantial question about the fact that the defendant Chu is so admitted.

"2. The defendant Gene Loy Chu at all times relevant to this indictment was engaged in the practice of law, maintaining an office at 9 Division Street, New York, New York. A portionof defendant Gene Loy Chu's practice consisted of representation of clients in matters pending before the Immigration and Naturalization Service."

I think there is no doubt that he was so engaged and that a portion of his practice did consist of such representation.

These two paragraphs are introductory and they apply to the entire indictment. paragraph 3 reading:

"Each and every allegation of this introduction is hereby repeated, realleged and incorporated by reference in counts 1 through 10 as though fully set forth therein."

Now we begin the actual counts themselves. Count 1 reads in part as follows:

"The grand jury further charges:

"4. From on or about January, 1973, up to and including the date of the filing of this indictment, in the Southern District of New York and elsewhere, Gene Loy Chu, Jean Fong and Kuo Ping Yu, also known as Jimmy Yu, the defendants, and others to the grand jury known and unknown, combined, conspired, confederated and agreed together and with each other and with other persons to the grand jury known and unknown to defraud the United States and to violate sections 1001 and 1546 of Title 18 of the U. S. Code."

What that paragraph 4 essentially charges is a conspiracy to violate certain laws of the United States. I will define for you in a moment more in detail what a conspiracy is and I will also tell you the substance of those two statutes that are specifically referred to, but first I would like to read to you the general statute which relates to conspiracy. It reads in part:

"If two or more persons conspire either to commit any offense against the United States or to defraud the United States or any agency thereof in any manner

or for any purpose, and one or more of such persons do any act to effect the object of the conspiracy, those persons have committed a crime."

The next portion of the indictment, count 1, is headed "Means of the conspiracy."

(Continued on next page)

Paragraph 5 of that section reads:

"Among the means whereby the defendants Gene Loy Chu, Jean Fong and Kuo Ping Yu, also known as Jimmie Yu, and their co-conspirators would and did accomplish the objects set forth in Paragraph 4 of this indictment were the following:

"(a) Jean Fong and Kuo Ping Yu, also known as Jimmie Yu, the defendants, would solicit United States citizens willing to marry Chinese aliens for the purpose of obtaining for said aliens immigrant visas from the Immigration & Naturalization Service which would qualify said aliens for permanent residence in the United States;

"(b) Jean Fong and Kuo Ping Yu, also known as Jimmie Yu, the defendants, would introduce Chinese aliens and the United States citizens who had been recruited by said defendants to the defendant Gene Loy Chu for the purpose of arranging marriages and obtaining immigrant visas for said aliens:

"(c) Gene Loy Chu, Jean Fong and Kuo Ping Yu, also known as Jimmie Yu, the defendants, would enter into an arrangement with Chinese aliens and United States citizens whereby the Chinese alien would pay

a sum of money to the defendant Gene Loy Chu at the time of the marriage between the alien and the citizen, of which approximately $1500 would be paid by the defendant Gene Loy Chu to the United States citizen for having married the alien. The arrangement would provide further that the alien would pay the United States citizen approximately $2000 in monthly installments for having entered into the marriage;

"(d) Gene Loy Chu, Jean Fong and Kuo Ping Yu, also known as Jimmie Yu, the defendants, would cause the alien and citizen to participate in the marriage ceremony;

"(e) the defendant Gene Loy Chu would prepare and cause the United States citizen to sign a Form I-130, 'Petition to classify status of alien relative for issuance of immigrant visa,'" and that is referred to herein as the I-130 petition, "which form, as the defendant Gene Loy Chu well knew, would contain false statements as to the residence and marital relationship of the alien and United States citizen whose marriage he had arranged;

"(f) The defendant Gene Loy Chu would then

file and cause to be filed with the Immigration & Naturalization Service on behalf of the alien and citizen a Form I-130 petition which contained false statements as the defendant Gene Loy Chu then and there well knew;

"(g) Prior to interviews at the Immigration & Naturalization Service of the alien and citizen concerning the truth of the information on the filed I-130 petition, the defendant Gene Loy Chu would prepare the alien and citizen to give false answers concerning their marital relationship and residence, the purpose of said false answers, as the defendant Gene Loy Chu well knew, being to defraud the United States into believing that the alien and citizen had entered into a bona fide marital relationship which the defendant Gene Loy Chu was not the case, said marriage having been contracted for the sole purpose of obtaining permanent residence for the Chinese alien."

The next portion of Count 1 is headed Overt Acts" of the conspiray. As I will explain to you in a moment, in order to complete or perfect the offense of conspiracy to defraud the United States, it is necessary for the Government to establish beyond a reasonable doubt

that the defendants, having entered into the illegal conspiracy, performed at least one overt act in furtherance of the conspiracy. That is not to say that all of them did it together, but only that during the life of the conspiracy at least one of the three defendants performed at least one of the overt acts which are charged in the indictment.

The indictment lists a great number of overt acts, 29 in all, with respect to the four different marriages:

The Torres-Hu marriage, the Mildred Miranda-Fan marriage, the Carmen Miranda-Jout marriage and the Hernandez-Chang marriage. Also the Cruz-Yeung marriage, five marriages.

As I say, you need find only one of those 29 overt acts was actually committed by one of the conspirators in furtherance of the objectives of the conspiracy.

Let's talk a little bit more about what a conspiracy is and what the Government must prove in order to establish a conspiracy. There are three essential elements which are required to be proved in order to establish the offense of conspiracy which is charged in the indictment. Before you can find a defendant guilty

hs5

of conspiracy, you must be satisfied that the Government has proved each of these three elements beyond a reasonable doubt. The three elements are these:

First, that at or about the time alleged in the indictment an agreement or understanding existed between two or more of the alleged conspirators to defraud the United States;

Second, you must find beyond a reasonable doubt that the particular defendant under consideration knowingly and wilfully became a member of the conspiracy;

Thirdly, you must find beyond a reasonable doubt that at least one of the conspirators knowingly committed at least one of the overt acts charged in the indictment, at or about the time alleged.

Let's consider those three elements separately:

First, as to the existence of a conspiracy. Simply stated, a conspiracy is a combination or agreement of two or more persons by concerted action to accomplish some unlawful purpose. In other words, a conspiracy is an agreement or understanding to violate the law.

Whether or not the persons charged in the indictment actually accomplished what they conspired to accomplish is immaterial to the question of their guilt or innocence. The success or lack of success of the

conspiracy is immaterial for the crime of conspiracy is a crime entirely separately from the substantive offense which is the object or goal of the conspiracy.

A conspiracy has sometimes been called a partnership in crime, in which each member of the partnership becomes the agent of every other member. To establish the existence of a conspiracy, the Government is not required to show that two or more persons sat around a table and entered into a formal contract, orally or in writing, stating that they have formed a conspiracy to violate the law and setting forth the details of the plan and the means by which it will be carried out and the part or contribution of each conspirator.

Your common sense will tell you that when men undertake to violate the law by means of a conspiracy, they leave much to unexpressed understanding. In determining the existence or non-existence of the conspiracy, it is not required that you find that each and every one of the alleged co-conspirators joined in the conspiracy. It is sufficient if you find beyond a reasonable doubt that two or more persons in any manner, through any contrivance, impliedly or tacitly, came to a common understanding to violate the law.

In determining whether there has been an

hs7

unlawful agreement, you may consider the acts and conduct which are performed in order to carry out a criminal purpose. A conspiracy may be established by disconnected acts on the part of the individual alleged conspirators, acts which you find when taken together and in connection with each other and with the reasonable inferences flowing therefrom, show a conspiracy or agreement to secure a particular result, and may do so just as convincingly as more direct proof of the actual agreement.

If upon consideration of all the evidence, direct and circumstantial, you find beyond a reasonable doubt that the minds of at least two of the alleged conspirators met in an understanding and that they agreed to work together in furtherance of the unlawful scheme alleged in the indictment, and that thereafter at least one of the conspirators did any of the overt acts alleged in the indictment in order to effect the object of the conspiracy, then proof of the existence of the conspiracy is established.

Before you may find that a conspiracy existed, you must also find that what the conspirators intended to do would have violated one or more Federal laws, if they had succeeded in accomplishing what they set out to do. If you find that a conspiracy existed, it is not required

that the Government prove that all of the alleged means or all of the overt acts were actually brought into play. As I have told you, it is only necessary that the Government establish beyond a reasonable doubt that at least one of the overt acts was performed by at least one of the conspirators in furtherance of the objectives of the conspiracy.

The indictment charges that the conspiracy commenced in or about January, 1973 and continued up to the date of the filing of the indictment. The date of the filing of the indictment is April 29, 1976.

It is not necessary for the Government to prove that the conspiracy started and ended on those specific dates. It is sufficient if you find that a conspiracy was formed and that it existed for some sbstantial time within the period set forth in the indictment and that at least one of the alleged overt acts was committed during that period.

A conspiracy once formed continues for as long as the evidence shows the conspirators intended to continue it. Such an intention may be inferred from such activities, if any, of the conspirators which you find to be in furtherance of the purposes of the conspiracy.

The second element, as I indicated before, is

hs9

the participation of a particular defendant in the conspiracy. Of course, you must make that determination individually with respect to each of the three defendants. In determining whether that defendant became a member of the conspiracy, you must determine not only whether he participated in it, but whether he did so with knowledge of its unlawful purpose. In other words, did he join the conspiracy with an awareness of at least some of the aims and purposes of the conspiracy.

Again, since we cannot look into a person's mind and determine his knowledge and intent, this is a matter of inference from the facts which are proved. It is not necessary that a defendant be fully informed as to all the details of the conspiracy or of its scope in order to justify an inference of knowledge. He need not know the full extent of the plan and all of its activities in advance.

However, mere association with one or more of the conspirators does not make one a member of the conspiracy, nor is knowledge of the existence of the conspiracy sufficient. What is necessary is that the defendant in question participated with knowledge of at least some of the purposes of the conspiracy and with the intent to aid in the accomplishment of those unlawful ends.

In determining whether a conspiracy existed, you should consider the acts and declarations of all the alleged participants. However, in determining whether a particular defendant was a member of the conspiracy, you may consider only the evidence of his acts and statements. As I have told you during the trial, he cannot be bound or charged with the acts or declarations of the other alleged conspirators, unless and until you are satisfied that a conspiracy existed between them and that the person who performed the act or made the statement was performing that act or making that statement in pursuance of the objectives of the conspiracy and during the existence of the conspiracy.

You may recall that during the course of the trial I repeatedly stated that certain evidence was being received subject to connection, and that was what I was talking about. A particular defendant is not chargeable with the acts and statements of the other defendants unless and until you find that he was a member of the conspiracy and you further find that the acts or statements were performed or made in the course of the conspiracy and in the furtherance of its objectives.

Of course, you do not have to find that the particular defendant knew in advance or even knew at all

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that that act or statement was going to be made or was made or performed. You only need find that he was a member of the conspiracy, that he joined the conspiracy knowing at least some of its unlawful objectives, and that the acts or statements were performed or made by someone who was a member of the conspiracy, during the course of the conspiracy and in furtherance of its objectives.

The guilt of a conspirator is not measured by the extent or the duration of his participation. Even if he participated in the conspiracy to a degree more limited than that of his co-conspitators, he is equally culpable or equally guilty as long as you have found him to be in fact a conspirator. If one joins a conspiracy after its formation and engages in it to a more limited degree than the other co-conspirators, he is equally culpable, so long as you should find beyond a reasonable doubt that he was in fact a co-conspirator.

The third element, as I mentioned, was the overt act or overt acts. Each of these elements you must find beyond a reasonable doubt in order to find the defendant guilty of the crime of conspiracy as charged in Count 1.

The overt acts that are alleged in Count 1 are not separate crimes or offenses. They are part of the crime of conspiracy. They are the third element of that crime, the other two being the existence of the conspiracy, the participation of a particular defendant, and, finally, the overt act performed in furtherance of the objectives of the conspiracy.

The overt act need not be a criminal act, that is, an act which in and of itself violates any law. It is only necessary that the objective of the conspiracy be illegal and that the overt act, whether illegal or innocent, be performed in furtherance of the objectives of that conspiracy.

When I say "innocent" I don't mean that it is not connected with the conspiracy. It must be connected with the conspiracy in the sense that it is intended to further the objective of the conspiracy.

What I mean to say is that it does not have to be an illegal act, or even an immoral act.

As I have already told you, it is not necessary for you to find a defendant guilty of the crime of conspiracy to find that he personally performed any of the overt acts which you find. It is only necessary, as I indicated before, that he be a member of the conspiracy and that

either he or one of the other members have performed at least one of the overt acts charged during and in furtherance of the objectives of the conspiracy.

The Government must show that at least one of the overt acts was committed in the Southern District of New York, which includes all of Manhattan.

In defining the elements of conspiracy, I have used the words knowingly and wilfully. To act knowingly means simply to act with knowledge and not ignorantly or inadvertently.

Wilfully means voluntarily and intentionally and with with the specific intention in this case of accomplishing something which the law forbids.

The actor need not know that his action violates the law. He need not even be aware of the law that he is violating, provided that he acts intentionally and with a conscious purpose of performing that act.

In order to find any defendant guilty of a consiracy you must find each of those three elements bevond a reasonable doubt.

The indictment charges, and the Government contends, that the evidence presented at the trial shows the existence of a single conspiracy to defraud the United States. The defendants contend that the Government's proof fails to show the existence of the one overall

bs3

conspiracy which this indictment charges. Rather, they contend that no conspiracy at all existed, or, if in fact one did exist, then the evidence shows at best several separate and independent conspiracies involving various conspirators.

Proof of several separate conspiracies is not proof of the single overall conspiracy charged in the indictment unless one of the several conspiracies proved is in fact the single conspiracy which the indictment outlines.

So you must first determine whether or not the conspiracy charged in the indictment existed between two or more conspirators. If you find that no such conspiracy existed then you must find the defendants not guilty.

Similarly, even if you find that several conspiracies existed, if no one of them was the conspiracy charged in the indictment, you must also find the defendants not guilty. However, if you are satisfied beyond a reasonable that such a conspiracy, as is charged in the indictment, existed, then you must determine who were the members of that conspiracy.

If you find that a particular defendant was a member of another conspiracy, but not the one charged in

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the indictment, then you must find that defendant Not guilty. In other words, before you find a defendant guilty you must find beyond a reasonable doubt that he was a member of the conspiracy charged in the indictment and not some other conspiracy.

An agreement to accomplish an unlawful objective does not cease to be a single conspiracy merely because it continues over a period of time or because there was a change in its membership.

There may be a single continuing agreement to commit several offenses by a multiplicity of means. A single conspiracy may exist even though the scheme encompasses a variety of purposes and a number of successive stages.

In determining whether a given conspiracy exists, you may consider what you find the evidence shows as to changes of personnel and activity. You may find a single conspiracy even though there were changes in personnel or activities, provided you find at least some of the conspirators continued throughout the life of the conspiracy that the purposes of the conspiracy continued to be those charged in the indictment.

The fact that the parties are not always identical does not mean that there are separate conspiracies. In

other words, if at all times the alleged conspiracy had the same overall primary purpose, and the same nucleus of participants, the conspiracy would be the same basic scheme even though, in the course of its operation, additional conspirators joined in and performed additional functions to carry out the scheme while others were not active or had terminated their relationship.

If you decide beyond a reasonable doubt that a conspiracy as charged in the indictment existed between any of the alleged conspirators, you must then decide as to each defendant individually whether or not he joined the conspiracy with knowledge of any of its purposes.

In determining whether a defendant was a member of the conspiracy, you must apply the standards about which I instructed you a moment ago.

So much for what a conspiracy is. Let us now turn briefly to the objectives of the conspiracy as charged in Count 1.

Count 1 charges that the unlawful object or goal of the conspiracy was to defraud the United States, and to violate Section 1001 and 1546 of Title 18 of the United States Code.

I will read those two sections to you in a moment.

bs6

Defrauding the United States is not restricted to cheating in money matters. It also includes misleading, deceiving, interfering with, obstructing or depriving the Government of one of its lawful administrative functions by deceptive or dishonest means.

The Government has the right to have the affairs of the Immigration Service conducted free of fraud, deceit, misrepresentation, concealment, interference and obstruction; thus, the term conspiracy to defraud the United States is an allegation that the defendants conspired to furnish false information to, and to withhold truthful information from the United States for the purpose of causing the United States to do things which it would not otherwise have done; in this case, to grant permanent resident status to persons who would not otherwise be entitled thereto.

The defendants are charged with conspiring to violate two specific Federal criminal laws Section 1001, which is the first of the sections referred to, reads in part:

"Whoever, in any matter within the jurisdiction of any department or agency of the United States, knowingly and wilfully makes any false, fictitious or fraudulent statements or representations, or

bs7

makes or uses any false writing or document, knowing the same to contain any false, fictitious or fraudulent statement or entry," is guilty of a crime.

The other statute, which is referred to, Section 1546 makes it a crime for anyone knowingly and under oath to make any false statement with respect to a material fact in any application, affidavit or other document required by Immigration laws or regulations prescribed thereunder, or knowingly to present such an application, affidavit or other document containing any false statement.

Before you may convict any defendant of a conspiracy to defraud charged in Count 1 you must find that the defendants conspired to obstruct and impair the functions of the Immigration & Naturalization Service by misrepresentation or by affirmative acts of concealment. Mere silence or mere non-disclosure of information to the Immigration & Naturalization Service is not sufficient to constitute the affirmative acts of concealment which the conspiracy charged in the indictment requires.

Thus, the Government must prove more than that the defendant Chu did not disclose or volunteer information to the agency, or that he merely sat silent while misrepresentations were made to the agency.

If the government proves only silence on the part of the defendant Chu, it will have failed to make out a case against him on the conspiracy charge.

An intent to defraud is an essential element of the conspiracy to defraud which is charged in count 1.

Thus, before you may convict any defendant with respect to this offense you must find that that defendant had a specific intent to defraud the United States Immigration Service. Mere negligence, even gross negligence, does not constitute an intent to defraud.

You must find that a defendant, with full knowledge that a false statement was being made, or false testimony being given, acquiesced in such testimony, or such statement with a specific intent of defrauding the United States of America.

In this regard, the instructions that I have given you with respect to the standards which are applicable to inferring knowledge or falsity should be considered by you as applicable to inferring the intent to defraud, which the government must establish beyond a reasonable doubt with respect to the conspiracy to defraud charged in count 1.

So much for count 1, the conspiracy count. We now come to the substantive counts. I am going to talk about those in two groups. The first group is counts 2 through 5. Counts 2 through 5 of the indictment charge Gene Loy Chu only with violations of sections 1001 and 2 of Title 18 of the United States Code. I read section 1001 to you a moment ago. It has to do with knowingly and wilfully making false or fictitious or fraudulent statements or representations to an agency or department of the United States.

The other statute, which is involved, is section 2 of Title 18. It reads in pertinent part, "Whoever commits an offense against the United States, or aids, abets, counsels, commands, induces or procures its commisssion,"is guilty of a crime.

In other words, that is the statute which prohibits aiding and abetting the commission of a crime.

Let's turn now to the actual indictment itslef, counts 2 through 5. I will read those counts:

"The grand jury further charges:

"8. On or about the dates hereinafter set forth in counts 2 through 5, in the Southern Distri-t of New York, and elsewhere, the defendant Gene Loy Chu,

in matters within the jurisdiction of a department and agency of the United States, to wit: The United States Department of Justice, Immigration and Naturalization Service, unlawfully, wilfully and knowingly made and used false writings and documents, to wit: forms I-130," petition to classify alien relative for issuance of immigrant visa "knowing said writings and documents to contain false, fictitious and fraudulent statements and entries with respect to the residence and marital relationship of the United States citizens and alien beneficiaries on whose behalf said writings and documents were filed by the defendant Gene Loy Chu, with the Immigration and Naturalization Service. . ."

Then there follows a table, the first column is entitled count, the second column is entitled marriage, and the third column is entitled date.

In those three columns is listed the information concerning four of the marriages with respect to which it is alleged Gene Loy Chu filed or caused to be filed false, fictitious and fraudulent statements.

Count 2 is the Torres-Hu marriage which was dated July 25, 1973.

Count 3 is the Mildred Miranda-Fan marriage

dated August 8, 1973.

Count 4 is the Carmen Miranda-Jout marriage dated August 20, 1975.

Count 5 is the Hernandez-Chang marriage, dated November 8, 1973.

In order to find the defendant Gene Loy Chu guilty of the crimes charged in any of those counts 2 through 5 of the indictment you must be satisfied beyond a reasonable doubt of four separate elements that the government must prove:

First, that on or about the date specified, in the Southern District of New York, the defendant Chu knowingly and wilfully made or used a writing or document.

Second, that the writing or document contained false statements or entries.

Third, that the defendant Chu knew that the writing or document contained false statements or entries.

And, fourth, that the document or writing was used in a matter within the jurisdiction of a department or agency of the United States.

In connection with the first two elements, you should know that the documents which the government claims are false are the I-130 petitions which have been

admitted into evidence.

In particular, the government claims that the documents contain false statements as to the residence of the parties and place at which they claim to have resided together.

The third element is that you must also must find beyond a reasonable doubt that the defendant Chu knew the documents contained false, fictitious and fraudulent statements.

As I told you before, knowledge and intent exist only in a person's mind and since it isn't possible to look into a person's mind to see what he's thinking or what he knows, the only way you can determine his knowledge or intent is to consider all of the evidence concerning what he did and what he said, and to determine from all the surrounding facts and circumstances whether he has been shown, beyond a reasonable doubt, to have the necessary knowledge and intent.

Direct proof is impossible, and of course, unnecessary. Knowledge and intent may be inferred from all the surrounding circumstances.

However, guilty knowledge on the part of the defendant Chu can't be established by demonstrating mere negligence on his part.

However, it is not necessary that the government prove to a certainty that the defendant knew that the statements on the I-130 forms submitted to the Immigration and Naturalization Service were false.

It is only necessary that you find from all the surrounding circumstances that the government has borne its burden of showing beyond a reasonable doubt that the statements were false.

If you find that the defendant Chu acted with reckless disregard of whether the statements were true or false, or consciously closed his eyes to facts which should have put him on inquiry, then the requirement of knowledge will have been satisfied unless you find that the defendant Chu actually believed that the statements made were true.

In other words, the defendant Chu may not be convicted on counts 2 through 5 if he actually believed the statements made in the I-130 petitions, no matter how recklessly he may have acted.

With respect to the fourth element which the government must prove in connection with count 2, I charge you that as a matter of law the submission of I-130 petitions to the Immigration and Naturalization

Service is a matter within the jurisdiction of the Department of Justice, which is a department of the United States.

If you find that these documents were submitted to the immigration service then this fourth element of the offense charged in counts 2 through 5 is satisfied.

The reason why I have charged you with respect to section 2 of Title 18, the so-called aiding and abetting statute, is to instruct you that it is not necessary for the government to show that the defendant Chu actually committed the crime himself. The government need only prove that he aided or abetted or that he induced or furthered the commitment of the crime by someone else.

The government need not prove that the defendant Chu filled out the I-130 forms himself or that he personally filed them with the Immigration and Naturalization Service, if you find beyond a reasonable doubt that another person did so at his instance, with his knowledge and participation.

To determine whether the defendant Chu aided and abetted the commission of the offense charged in counts 2 through 5, you must ask yourself such questions

as: Did Chu associate himself with the filing of false petitions? Did he participate in the filing of such petitions as something that he wished to bring about?

Did he seek by his actions to make the petitions succeed?

Did he do so with the knowledge that the statements contained in the petition were false?

If you find those things beyond a reasonable doubt then you will find the defendant Chu guilty on counts 2 through 5 as an aider and abetter.

If, on the other hand, you find that he didn't aid or assist or induce or participate in the filing of those petitions, or that the petitions were filed without his knowledge that they contained false statements, then, of course, you must acquit him on those counts.

Now, let's finally turn to counts 6 through 10 of the indictment. In those counts, which again are directed only against the defendant Gene Loy Chu, he is charged with violating section 1505 of Title 18 of the United Atates Code, and that statute reads in part "Whoev er corruptly endeavors to influence or impede any witness in any proceedings pending before any department or agency of the United States is guilty of a

crime.

I will now read you counts 6 through 10 of the indictment:

"The grand jury further charges:

"9. On or about the dates hereinafter set forth in counts 6 through 10, in the Southern District of New York and elsewhere, the defendant Gene Loy Chu unlawfully, wilfully, knowingly and corruptly endeavored to influence and impede the witnesses named herein in counts 8 through 13 in proceedings pending before any department -- before a department and agency of the United States, to wit: official inquiries conducted by the United States Department of Justice, Immigration and Naturalization Service, to determine the truth of information on forms I-130 'petition to classify alien relative for issuance of immigrant visa' which were filed by the defendant Gene Loy Chu on behalf of said witnesses, whom the defendant Gene Loy Chu advised to lie and give false statements during interviews with the Immigration and Naturalization Service concerning their marital relationship."

Then again we have a table with three columns, the first column of which is headed count, the second column is headed witness and the third column is

headed date.

There are listed there five different witnesses whom it is alleged the defendant Chu advised to lie and give false statements in proceedings before the Immigration and Naturalization Service.

Count 6 concerns the witness Elizabeth Hernandez, who -- is this the date of the testimony of the date of the alleged influence?

MR. KINGHAM: The date of the alleged influence, your Honor.

THE COURT: The date of the alleged influence is November 11, 1975.

Count 7 concerns the witnesses Mildred Miranda, Fan Wun Chiu and Francesca Torres --

MR. FLEMING: No, your Honor.

THE COURT: Excuse me, I'm sorry. Mildred Miranda and Fan Wun Chiu, and the date January 18, 1974.

Count 8 concerns the witness Francesca Torres and the date January 30, 1974.

I should say to avoid confusion that count 7 concerns Mildred Miranda and Fan Wun Chiu. Count 8 concerns Francesca Torres. Count 9 concerns the witnesses Carmen Miranda and Jout Jan Jong, the date

April 2, 1974, and finally, count 10 concerns the witness Imgard Cruz, and the date January 8, 1975.

(Continued on next page)

8A

In order to convict the defendant Gene Loy Chu of any of the crimes charged in counts 6 through 10, the government must prove each of the following two elements beyond a reasonable doubt:

First, that the defendant knew that a proceeding was pending before an agency or department of the United States, and, second, that the defendant Chu wilfully, knowingly and corruptly endeavored to influence or impede a witness who would apprar in that proceeding.

Now, let's consider the first element. The government must demonstrate that the defendant Gene Chu tried to influence a witness in a proceeding which he knew was pending before an agency or department of the United States.

The word "proceeding" encompasses all of the steps and stages for ocnducting a business before federal agencies. It includes both investigative and judicial functions.

In this case, the evidence shows, and there seems to be no dispute, that at all times relevant to this indictment, the Immigration and Naturalization Service screened and investigated I-130 petitions filed by citizens for alien spouses.

More specifically, beginning in October, 1973

the immigration service began to interview citizens and spouses in connection with the petitions.

In order to find that the defendant Chu knew that a proceeding was pending before the immigration service on the dates in question, you need determine only that he knew on or about the dates alleged in each count that the immigration service conducted inquiries in order to adjudicate I-130 petitions.

Now let's look at the second element, the endeavor to influence or impede. In order to convict Mr. Chu on any of counts 6 through 10, you must also be satisfied beyond a reasonable doubt that he corruptly endeavored to influence or impede a witness or witnesses in that proceeding.

The word "corruptly" simply means an action taken for a bad or illegal purpose. The word "endeavored" simply means attempted. It is designed to include all conduct which is aimed at obstructing or interfering with the lawful investigative functions of federal agencies, whether the conduct is successful or not.

Here the government asserts that the defendant Chu sought to influence and impede witnesses who were to appear before officers of the immigration service who were to conduct interviews in connection with the I-130

petition in order to determine whether the marriages in question were bona fide.

The government claims that the defendant did so by coaching the witnesses to lie and furnishing them with false answers or suggesting that false answers might be made without necessarily specifically suggesting certain answers.

As I indicated, you don't have to find that the defendant's efforts to impede or influence were successful. Any effort or endeavor, whether successful or not, which is made for the purpose of corruptly influencing or impeding a witness in his testimony in an agency proceeding is illegal. Therefore,you need not find that the defendant Chu actually succeeded in influencing a witness to give false answers in impeding a witness from telling the truth. The mere effort to accomplish such a result is forbidden by section 1505.

As to all of the crimes charged in the indictment, the government must prove beyond a reasonable doubt that the defendant in question acted wilfully and knowingly. You must therefore determine whether the government has proven beyond a reasonable doubt that a particular defendant under consideration acted voluntarily and with knowledge and deliberately as

opposed to acting ignorantly or mistakenly or inadvertently.

As I told you before, it is not necessary that the defendant know he was violating a particular law. It is only necessary that he intended to do what was in fact a violation of the law.

You should not be influenced by the number of witnesses called by either side. We speak of the weight of the evidence, but by that term we don't mean the number of witnesses, we really mean the quality of the evidence on each side, and the quality or weight of the evidence is not necessarily determined by the number of witnesses.

We have here a situation, as you all recognize, in which someone has not to be telling the truth and -- excuse me, an untruth. All of the witnesses for both sides cannot be telling the truth because the stories are inconsistent at a number of points, and you will have to determine the credibility of the witnesses, that is the believability of the witnesses.

How do you go about determining the credibility or believability of a witness? You do it exactly the same way you would determine the credibility or believability of someone who tells you something in your

everyday personal or business life.

You consider the demeanor of the witness, how he acted on the stand, did he appear frank and forthright, or was he evasive. Was he attempting or apparently attempting to conceal facts or to slant the facts to serve a particular purpose? What is his relationship to the controversy? Did he have any interest in falsifying, any motive for falsifying? Did his statements make common sense to you? Were they plausible? To what extent were his statements corroborated by other evidence in the case, either by the testimony of other witnesses or by the documentary exhibits.

Was the witness really in a position to know the facts about which he testified? Was his testimony contradicted in any respect? If you find that a witness made an inadvertent misstatement, you, of course, will give that such weight as you think it is entitled to.

If you find that a witness made a conscious misstatement, that is knowingly and intentionally falsified, you may likewise give that such significance as you think it is entitled to in determining the credibility of the rest of his testimony.

You may decide that because he testified

falsely as to one fact, you don't want to believe anything else he said. On the other hand, you may decide to give full faith and credit to everything else he said.

So the significance to be given the fact that a witness testified falsely in one respect is entirely up to you.

Certain of the witnesses who testified were admittedly guilty of prior criminal offenses, prior convictions. It doesn't necessarily follow that from the fact that a witness has committed a crime heretofore his tstimony is unworthy of belief. Prior convictions are just one of the factors which you could and should take into consideration in determining the credibility of that witness.

The government called a number of witnesses who were admittedly accomplices in the conspiracy and in the substantive crimes charged in the indictment. They are not here under indictment. The government contends, as it is permitted to do, that it must take the witnesses as it finds them, and this is particularly applicable in the case of conspiracy or other crimes involving groups of people.

The government is frequently required to use

such co-conspirators as witnesses.

It is argued that often only the people who themselves participate in illegal conspiracies have the knowledge required to show the criminal behavior of others.

There is no prohibition against the use of such accomplice testimony. Indeed, it is the law in the federal courts that the uncorroborated testimony of accomplices may itself be sufficient for a conviction, but an accomplice's testimony must, of course, be weighed with caution and scrutinized with care.

In assessing the credibility of one of the accomplice witnesses, as with any other witness, you must consider his or her interest in the outcome of the case. You may consider evidence as to any benefit the witness expects to derive from his or her testimony, just as you would consider the motive of any other witness in the case.

The ultimate question in passing upon the credibility of all the witnesses is, after taking into account all of the factors that affect their testimony, do you think that they did or did not testify truthfully before you?

Some of the witnesses who testified admitted that they had previously testified falsely or made false statements under oath. The testimony of an admitted perjurer should likewise be considered with caution and weighed with great care.

However, it is up to you to decide the weight to which the testimony in this courtroom of someone who has admitted previously committing perjury is entitled. The question of the credibility of every witness is for you and you alone to decide.

The same goes about the fact that a number of witnesses have admittedly violated the laws relating to

Immigration and the fact that they have been given immunity from prosecution for such violation in return for their testimony. The testimony of such persons should, of course, be closely examined and weighed with care and checked against all of the other facts and circumstances of the case. In the light of such consideration, you should then give the testimony of such witnesses, such value or weight as you deem appropriate.

The law permits a defendant to testify, if he chooses to do so. As I have indicated, he cannot be required to do so. He has the privilege to do so, if he chooses.

Two of the defendants chose not to testify, and, as I have told you, the fact that they did not elect to testify should not be taken by you as implying any guilt on their part. The defendant Gene Loy Chu did elect to take the stand. Like the testimony of any other witness, it is up to you to determine the credibility of the testimony of the defendant Chu.

Obviously, he has a deep personal interest in the outcome of the case, and that fact should be considered by you in determining the credibility of his testimony. Obviously, his interest in an acquittal creates a strong motive for false testimony, and this naturally will be taken

hs3

into account by you. However, the mere fact that the defendant, or any other witness, has a strong interest does not mean that he did not testify truthfully before you. It is just one factor which you should consider, along with all the other factors, in determining which witness to believe and which witness to disbelieve.

There was testimony here of the good character and reputation of the defendant Chu. You should consider such character evidence together with all the other facts and evidence in determining his guilt or innocence. Evidence of good character may create a reasonable doubt where without such evidence no reasonable doubt would have existed. But your determination whether the Government has carried its burden or proving beyond a reasonable doubt the offenses charged should be based upon all of the evidence in the case.

The more fact that a man has an absolutely blameless reputation and has lived a life otherwise above reproach is, of course, only one element that you should consider in determining his guilt or his innocence.

In your deliberations I do not want you to consider the possible punishment that the Court might impose in the event you should find one or more of the defendants guilty. That should not concern you in the

hs4

least. That is up to me to decide. It is not a pleasant task, but it is one which is mine and mine alone. So, when you deliberate guilt or innocence, I want you to put entirely out of your minds the thought of whether the defendant might get a harsh sentence or a light sentence. I assure you I will give him whatever leniency I think he is entitled to under the circumstances, and I want you to think not at all about that matter.

I want you to consider only whether or not the Government has proved beyond a reasonable doubt each of the elements of each of the offenses charged. Do not let sympathy for one of the defendants enter into the performance of your sworn duty as jurors in the case.

You must return a separate verdict of guilty or not guilty as to each defendant on each count on which that defendant is charged. As I have indicated, all three defendants are charged on Count 1 of the indictment, so you must return three verdicts as to Count 1, a verdict of guilty or not guilty as to each of the three defendants.

With respect to Counts 2 through 10, you must return a verdict of guilty or not guilty as to the defendant Chu, who is the only defendant charged on those nine counts. So you are returning a total of 12 separate verdicts of guilty or not guilty, three on Count 1, one

hs5

for each of the three defendants, and a verdict of guilty or not guilty with respect to the defendant Chu or each of the other nine counts.

The purpose of your jury deliberations is to attempt to reach a unanimous verdict on each of those counts as to each defendant charged on that count. The verdict on each count as to each defendant, that is each of those 12 separate verdicts, must be a unanimous verdict of the jury, if that is possible.

In your deliberations you will find, in all probability, that you start with many different points of view. The objective of your deliberations is to exchange those poins of view, each juror participating freely and without hesitation in the expression of his or her views, and, above all, listening attentively and with an open mind to the points of view of his or her fellow jurors, with the end of arriving at a single verdict as to each of the 12 points, which represents the unanimous vote of all 12 jurors.

Do not be too proud or stubborn to accept the viewpoint of a fellow juror. Do not feel that you have to win the argument or to vindicate the position that you take at the beginning of the discussion. Keep an open mind, listen to what your fellow jurors say and see if you

can in good conscience adjust your point of view to theirs to reach a common ground.

I do not mean to suggest that you must agree if you cannot conscientiously do so. The verdict must be the conscientious vote of each and every juror, and do not give up a point of view that you still sincerely and conscientiously hold merely because you are outnumbered. But, do keep an open mind and try to agree on a single vote as to each of the 12 points, if you can conscientiously arrive at that result.

In your discussions you will probably find that you have some difficulty in remembering parts of the testimony or that you have different recollections of the testimony. If you want any part of the testimony reread, if you will send a note out to me through the marshal who will be posted at the door of the jury room, we can have the reporter reread from his notes the part of the testimony in which you are interested.

Likewise, if you want to have with you in the jury room any of the exhibits that were introduced into evidence so that you can see the exhibits themselves, send a note out to me and we will be glad to send that exhibit in for your use. We will not send them in at the beginning because it may not be necessary and we do not

hs7

want you to spend your time reading all the exhibits unless you find there is some useful purpose to be served by doing so. I will send in, if counsel agree, the actual indictment, simply because it is long and complicated, and particularly because I have not read to you the overt acts that are charged in Count 1.

If y ou find that I have left anything unclear in my charge, or that I have failed to instruct you on something that you feel you need guidance on in your deliberations, if you will send a note out to me, I will be glad to either repeat the charge or to explain it or to add to it in any way that you feel necessary.

The hour is fairly late already, and I want to assure you that I will not keep you late tonight because I realize that some of you may feel uneasy in going to your homes late at night. I will keep you for just a little while, but I will let you go no later than seven o'clock at the latest. That will give you a chance to talk briefly tonight, and then if you have not reached a verdict by that time, and I suspect that you will not have, then I will bring you back just long enough to excuse you, you can go to your separate homes and come back at ten o'clock in the morning to resume your deliberations.

If you will excuse us just a minute, I will see counsel in the robing room.

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(Robing room.)

THE COURT: Any objections, exceptions, or suggestions?

MR. KINGHAM: I have a couple that may obviate some of the other discussion, your Honor.

In the instruction on defrauding the United States, you used the phrase "withholding truthful information." I think we neglected beforehand to delete that. We mentioned in connection with other parts of the charge, but we didn't do it in that particular part, that material. I am not sure that there is any problem in light of the fact that it is clear from the charge as a whole that we are talking here about affirmative statements, particularly in light of the fact that --

THE COURT: Yes.

MR. KINGHAM: The only other problem I have --

THE COURT: That is with respect to Counts 2 through 5.

MR. KINGHAM: Defrauding United States, your Honor.

The other one I have is --

THE COURT: On conspiracy?

MR. KINGHAM: Yes.

The other one that I noted was that in discussin

bs2

knowledge and intent in connection with Counts 2 through 5 you said, and I quote, "The Government need only prove the statements were false." and you neglected to say and that the defendant knew that they were false.

THE COURT: I didn't remember that.

MR. KINGHAM: You said it at another part, but there was a part where you neglected to say it.

I saw Mr. Fleming's pen moving.

MR. FLEMING: On that I want to state that it is not sufficient --

MR. SPRIZZO: Maybe you should reread that portion of the charge, your Honor.

MR. KINGHAM: I would suggest, your Honor, that you say that in connection with the false statements counts, the alleged false statement counts, that the Government's burden is to prove not only that the statements were false -- prove beyond a reasonable doubt not only that the statements were false, but also, of course, that the defendant knew that they were false. That would cover it.

MR. SPRIZZO: Just for the record, we will take exception to the Court's failure to charge as requested. That is what we will do for whatever it is worth.

In particular, I think particularly I would like the portion of your Honor's charge where you were talking

about the purpose of the marriage to be to gain permanent residence, your Honor, we asked I think, that it be done in terms sole or primary purpose --

THE COURT: I did that.

MR. SPRIZZO: There is the possibility that the jury may confuse motive with intent, that the person entering into the marriage for the sole purpose of gaining permanent residence status is --

THE COURT: I did say specifically the mere fact that he had an objective applying for permanent residence status and ultimately for citizenship, that that does not mean the marriage is not bona fide.

MR. SPRIZZO: I think that should be told to the jury --

THE COURT: If that is the only reason, then the implication is that he never intends to live with his wife or support her.

MR. FLEMING: That is where we disagree.

MR. SPRIZZO: We disagree with you on that.

MR. KINGHAM: I think that the instruction you gave is proper under the law, and I will assume the risk on that.

THE COURT: I will share the risk on that.

MR. SPRIZZO: I don't know whether the Govern-

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ment will agree with this or not, but on the single conspiracy charge, since the Government has agreed with us in oral argument, at least on the motions, that all the married parties are sort of spoke conspirators, not really core conspirators, it might clarify things for the jury if the Court tells them that they must find a conspiracy among at least two of the three defendants, the persons named as defendants, because I don't think the Government contends that anyone else was a core conspirator.

Am I correct on that, Mr. Kingham?

MR. KINGHAM: You gave the charge that was requested in the defense language.

THE COURT: It is not a model of clarity, but it is not my fault. I took your words.

MR. SPRIZZO: Did your Honor charge that participation must be established only by the defendants' own acts?

MR. KINGHAM: Yes. Twice, I believe.

THE COURT: I did say that.

MR. SPRIZZO: I was not sure on that. Also, I think the Government would agree with us on this, too, this is a superseding indictment and probably the Court should tell the jury as a matter of law that the conspiracy terminated as of the date of the filing of the first indict-

ment.

MR. KINGHAM: I don't think so, your Honor.

MR. SPRIZZO: It is questionable. It could not have existed past that date.

THE COURT: That will only confuse them.

MR. SPRIZZO: I don't understand why -- I do except to that portion of the charge which talks about aiding and abetting because I think we did ask as to whether Chu was a principal or an aider or abettor and we got an answer which indicated that he was --

MR. KINGHAM: I indicated that he caused the statements to be filed and that he used false writings.

THE COURT: The indictment specifically refers to Section 2.

MR. SPRIZZO: I thought the Government was taking the position that he was a principal and not an aider and abettor.

MR. KINGHAM: He is both.

MR. SPRIZZO: He made the statement he filed them and therefore he was a principal. I except to that.

THE COURT: You should have made that earlier.

MR. SPRIZZO: What I said was I was going to reserve my other objections until after I heard the charge rather than waste the time this morning.

bs6

THE COURT: On the whole section of the charge, which you knew the Government was requesting, to let me go ahead and make it and then, after I have made it, to object is --

MR. SPRIZZO: If your Honor agreed with us, just tell the jury to disregard that portion of the charge.

THE COURT: I don't think I should. I believe that I have fairly charged aiding and abetting.

MR. SPRIZZO: In your aider and abetter charge, I think when you were referring to the -- I guess it was the interests of the defendant, there are two spots in the charge where you used the word "will" instead of the word "may."

You said, "will convict" as opposed to "may convict," and that may create an implication in the jury's mind that they must do something.

THE COURT: A couple of times I used the "will acquit," too.

MR. SPRIZZO: The Judge has the power to direct a verdict of innocence but not a verdict of guilt.

THE COURT: It depends on how the sentence is phrased. If the sentence is proper it is all right to use the word "will."

If you find that the Government has proven beyond a reasonable doubt A, B, C, and D, all of the elements of the offense, then you will convict.

MR. SPRIZZO: The Court can never tell the jury in words or substance that they must convict. The jury always has, in the words of Judge Friendly, the prerogative of leniency and the Court does not have the power --

THE COURT: The prerogative of leniencey? It is a sworn duty as a juror to apply the law as I give it to them and to leave punishment to me.

MR. SPRIZZO: I agree with that. What I am saying is that there is no power in the Court for it to suggest in any way that the jury do anything, and the word "will" does do that, and I think the word "may" should be substituted in those portions of the charge.

MR. KINGHAM: I object.

MR. SPRIZZO: I except to those portions of the charge.

THE COURT: I don't think it is a matter of great importance. If the jury noted that difference in that lengthy a charge I would be very suprised.

MR. SPRIZZO: It may not be, but our obligation, if we think there is a problem, is to take an exception as

bs8

the Court of Appeals tells us we have to.

Also, I do except to that portion of the charge which talks about ignorance of the law basically not being an excuse because this is a specific intent case, and I know your Honor did charge on conspiracy to defraud with specific intent, but I think this is liable to confuse the jury a little bit --

THE COURT: What I said in effect was that the defendant does not have to know he is violating a specific law. He doesn't even have to know that there is such a law.

MR. SPRIZZO: In this case on the conspirawcy count to convict any defendant on the conspiracy count, especially their clients, I think these people would have to know that a sham marriage is not sufficient for purposes of permanent residence, otherwise they could not have an intent to defraud the United States by having a sham marriage.

So at least insofar as the conspiracy count is concerned, I think that scienter on the part of all defendants, because our client is a lawyer and obviously the jury can infer it, but scienter on the part of an individual defendant is necessary -- they do have to know what the law is on sham marriages because without that

knowledge they really can't have an intent to defraud the United States by having sham marriages, which was part of the argument I tried to make on the first point.

There really wan't any proof of scienter on the part of those people and I don't see how they can be part of this conspiracy, but that is another question which was argued.

MR. KINGHAM: I don't think Mr. Sprizzo is correct, your Honor.

THE COURT: He makes a very eloquent and persuasive argument.

MR. KINGHAM: His argument basically is, however, with respect to the marriages -- with respect to the validity of the marriage, I don't think that is the law.

THE COURT: You are probably right in this sense. You don't have to know that a marriage for the sole purpose of getting a green card is illegal if you intend to misrepresent to the Immigration & Naturalization Service the residence of the defendants. That is really --

MR. SPRIZZO: Obviously, if they intend to make a false statement there is no problem with the scienter there.

To the extent that you have to have intent to

bs10

defraud the United States by obstructing the INS by having a sham marriage, I don't see that intent is possible without knowledge that a sham marriage, something more than a valid marriage is sufficient for that purpose. To me it seems obvious. That is why I think that the waters are muddied a bit on Count 1. That only charges Chu --

MR. KINGHAM: Your Honor, the charge that is given on conspiracy is more than sufficient under the circumstances to charge the requisite knowledge as to the defendants.

It is part of the general charge on knowledge and intent, and I think your instructions thus far as more than sufficient. To raise that issue at this point would unduly confuse the jury.

THE COURT: I assume that all the other defendants associate themselves with these exceptions?

MR. CONCANNON: Yes.

THE COURT: Do you have any other?

MR. FLEMING: I have two, your Honor.

I object to your Honor's instruction on accomplices, that it is frequently necessary for the Government to use such witnesses because that, in my judgment, and I think in Mr. Sprizzo's, amounts to judicial testimony and I take exception to that charge.

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THE COURT: All right.

MR. KINGHAM: I would request that that not be changed.

THE COURT: It was in your proposed charge. It was quite truthful. But is it really a matter of law or is it a matter of fact that I am testifying about?

MR. KINGHAM: I believe, if you will, I believe it is a matter of almost judicial notice.

MR. SPRIZZO: That is where we disagree.

THE COURT: I am not supposed to tell them about things I take judicial notice of. The jury can take notice of it.

MR. KINGHAM: It seems to me that you have to tell them that, in any event. I think to change your instruction now is not proper.

THE COURT: I would say it is not prejudicial, in any event.

MR. KINGHAM: Although it is not my risk, I assume that one as well.

THE COURT: That is not prejudicial. If I change that now it won't really help any of the defendants, it will only confuse the jury.

MR. FLEMING: I take exception to that part of your Honor's charge where you told the jury that you would

bs12

be as lenient as you could be in whatever the circumstances were in talking -- asking them to disregard punishment.

THE COURT: I winged that and I should not have, and I will tell them to disregard that.

I have no idea whether I will be lenient or tough.

MR. KINGHAM: Or whether anyone could require that.

(Continued on next page.)

MR. FLEMING: Your Honor, the final thing, it has to do with something Mr. Kingham said in his rebuttal argument, in answer to the question as to why Chu didn't tell Fan and Miranda to lie as to how they met was that Fan and Miranda had met at -- I don't know what he said --

MR. KINGHAM: Jean Fong's house.

MR. FLEMING: I didn't know that you had said that. Your Honor, I just went through the testimony. The Fan testimony is that he went to Chu for the purpose of getting married, he was introduced to Carmen, they thereafter met Mildred at Jean Fong's house. That's what Fan testified to.

MIranda testified that she met Fan at Jean Fong's -- no, Miranda testified she met Fan at 2185 Valentine Avenue. There was no discussion of marriage. She went down to Chu's office and she asked Chu if she could get married and then she suggested that she be substituted for Tracy, and that she called Tracy on the telephone and that Tracy said okay and the substitution was made. Chu testified that he introduced Mildred and Fan in his office.

My point, if your Honor please, it is highly misleading for Mr. Kingham to say that the question how

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did you meet would be answered we met in Jean Fong's apartment.

Any question as to how you met necessarily would have led right back to Chu on all of the testimony in this case. He arranged the marriage and that's the charge.

MR. SPRIZZO: It draws an improper inference.

MR. KINGHAM: Your Honor, the testimony is --

THE COURT: I'm simply tell them they will have to base it on their recollection of the evidence. I can't -- I don't think it's proper for me to tell them what the evidence is in that respect.

MR. KINGHAM: I object to haveing that singled out.

MR. FLEMING: I ask your Honor to review the testimony to that fact. I ask that your Honor read to the jury the overt acts on the Miranda-Fan marriage.

MR. KINGHAM: I object to that.

MR. SPRIZZO: At least tell them to disregard that portion of the summation.

MR. KINGHAM: It is improper.

MR. SPRIZZO: We think it was misleading and improper.

MR. KINGHAM: The credible evidence in this

record relates to them meeting in a place other than Gene Chu's office.

MR. SPRIZZO: The government contends that he arranged the marriage.

MR. FLEMING: It will go right back to Chu, your Honor, any honest explanation on anybody's version of the facts.

MR. KINGHAM: Mr. Fleming asked that the question be answered. I answered it. It was a fair answer.

MR. SPRIZZO: You answered it in a way that was highly misleading.

MR. FLEMING: We ask for a mistrial on that basis, your Honor.

MR. KINGHAM: I object to that.

MR. FLEMING: At the very least, we would ask you to read the overt acts on the Miranda-Fan marriage to the jury now.

MR. KINGHAM: If that's the case I ask that all the overt acts be read, which I think is unnecessary.

MR. FLEMING: These are the overt acts on the Miranda-Fan marriage. It was a very misleading statement, your Honor.

MR. KINGHAM: It's also interesting that no

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objection was taken at the time.

MR. FLEMING: I had to read the testimony. I'm not a computer.

THE COURT: Your objection is to the fact that he said that Mildred Miranda and Fan met at Jean Fong's apartment?

MR. FLEMING: His argument was that the reason Mr. Chu would not tell them to make up a story as to how they met was because they met at Jean Fong's apartment. Any explanation of how -- taking anybody's version of the fact, either Fan's or Miranda's or Chu's, and all three differ, taking any one of those as the truth, any explanation of how these people met would lead directly to Gene Chu's office.

MR. SPRIZZO: Gene Chu had no motive to tell them to lie about where they met because he wasn't involvedin arranging that marriage.

THE COURT: If I try to tell the whole story with respect to each item that was discussed by counsel we will be here until July 4th.

MR. FLEMING: I ask you to read the overt acts.

MR. SPRIZZO: At least tell the jury to disregard that portion.

THE COURT: I'll tell them to use their own recollection.

MR.FLEMING: The charge is in or about July, 1975, Gene Loy Chu spoke with Mr. Fan --

MR. KINGHAM: That was in the testimony, your Honor.

THE COURT: I really don't understand your point.

MR. KINGHAM: I object to all of this.

THE COURT: I will mention the fact thatyou object to his statement and that they will rely on their own recollection.

MR. CONCANNON: For the record, your Honor, Jean Fong joints in the objections and exceptions.

THE COURT: All right.

(In open court; jury present)

THE COURT: I am going to supplement the charge or modify the charge in only a couple of respects.

In discussing the conspiracy charge, count 1, at one point I referred to the withholding of truthful information. I want to emphasize again what I told you at another point in the charge. That is that it is not sufficient to prove that the defendant Chu merely withheld information or that he remained silent while others

bsr6

were giving incorrect information.

You must find beyond a reasonable doubt in order to convict any of the defendants on count 1 that there was a conspiracy to defraud the United States. And that each of the defendants in question knowingly associated himself with that conspiracy, and that at least one of them performed at least one of the overt acts charged in count 1 in furtherance of the objectives of that conspiracy.

It is not enough that information was merely withheld. Wrong information must be furnished or there must be some affirmative action taken to suppress information.

In other words, mere non-disclosure is not enough.

The next point is that in discussing counts 2 through 6, those are the false statement counts, I charged you at one point that the government need only prove that the statements were false. Well, from the rest of my charge you must realize that the government has to prove more than the fact that the statements were false. The government must also prove beyond a reasonable doubt that the defendant Chu knew that the statements were false.

I want to instruct you to disregard one other statement that I made in the course of the charge. I said thatthe government frequently finds it necessary to use accomplices as witnesses. Disregard that statement. I am too new a judge to know how frequently the government has to use accomplices as witnesses. It doesn't make any difference whether the use is frequent or infrequent, it is totally irrelevant to your determination of the case. It was just a gratuitous and unplanned remark on my part that I wish you to put completely out of your mind.

They did use accomplices in this case. And accomplice testimony, like the testimony of any other witness, is subject to your determination as to the weight to which it is entitled and the credibility of the witness, considering all of the surrounding circumstances, including the fact that the wintess may have been promised immunity from prosecution in exchange for the testimony.

Now, the next point is that I told you to disregard the punishment that might be imposed upon a defendant should you find that defendant guilty.

In connection with that, I said that I would be as lenient as the circumstances indicated. I should

bsr8

have said I will be as lenient or as harsh as the circumstances indicated. I have not seen the pre-sentence reports on any of these people and won't see them unless and until they are convicted and an investigation is made, and until then I have not got the vaguest notion what kind of punishment might be imposed upon a defendant should you find that defendant guilty.

So if I don't know what punishment will be imposed, obviously you don't either. And you shouldn't consider what punishment might be in determining guilt or innocence. That is not one of the things which a jury should properly consider.

Your determination should be made independently of any speculation about possible punishment or independently of any consideration of sympathy.

It's been called to my attention that in the course of his rebuttal argument the prosecuting attorney stated that the reason why the defendant Chu didn't have to urge anyone to falsify the facts as to how Mildred Miranda and Mr. Fan met was that they had met at the apartment of Jean Fong and not at Gene Chu's office.

The defendants' attorneys have indicated that

they take a different view of what the evidence shows. I want to emphasize again that it is your recollection of the evidence that governs, and you will reach a verdict based upon your recollection of the evidence, and you should not consider the statements made by counsel as to their recollection because those statements aren't evidence in the case.

Any further comments or suggestions?

MR. KINGHAM: No, your Honor.

MR. FLEMING: No, thank you, your Honor.

THE COURT: All right.

We can now -- let me ask --

(In the robing room)

THE COURT: It is now 6:30. I have indicated to the jury that I would let them go no later than 7. I wonder whether it's agreeable to all to let them go now so that we can hold the alternates in case one juror does not show up in the morning. We won't have lost anything. They have only 30 minutes left, and if one of the 12 jurors turns up sick tomorrow we have to let them all go until that juror is back on duty again.

MR. KINGHAM: I see a problem with that. First of all, they have been charged and I think it is

appropriate to let them begin deliberations immediately following the charge. I would make a request, and I think in view of the time of year, because it does remain light out later, that the jurors be asked if they wouldn't mind staying to 7:15 or 7:30, which would give them plenty of time to get to their modes of transportation or whatever before it gets dark and have them come back in the morning if necessary.

But I would object to having the jury released at this point having just been charged on the evidence.

THE COURT: All right. If anyone objects then I won't do it.

(In open court; jury present)

THE COURT: We can excuse the three alternate jurors now. I thank you very much for bearing with us. I am sure you are just as happy to be spared the difficult decisions which the jury will have to make.

As you understand, you have performed a very important function in that if any of the other jurors had had to be excused during the trial we wouldn't want to start all over again from scratch.

Thank you very much for your time and

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attention.

(Alternate jurors excused)

(The marshals were duly sworn)

THE COURT: I am going to ask you to indulge me a little bit. I had indicated that I would let you go by 7, but it is much later than I thought it would be and I want to give you a little chance to start your deliberations, so I will keep you a little later than that, but not much later. No later than 7:15 or 7:30 at the latest. This time of year it stays light late enough that you will still be able to get home in daylight.

So I will bring you in not later than 7:15 to 7:30 and let you go at that time if you haven't reached a verdict. Then you will be excused until 10 o'clock in the morning.

MR. KINGHAM: Your Honor, would you like to send the indictment in?

THE COURT: Yes. I will give it to the forelady.

(At 6:38 p.m., the jury retired to deliberate upon a verdict)

THE COURT: The marshal has been asked by a couple of jurors to make calls home for them to say that they will be a little late. I want to make sure that

bsr12

there be no objection on the part of any of the parties to his making those calls.

MR. FLEMING: We have no objection.

THE COURT: One other thing, and I will check with the United States Attorney on this when he comes back, as he is not present at the moment, in the event the jury requests any of the exhibits, may be have your agreement that those exhibits may be sent into the jury without the necessity of my coming back into court? You will be informed when the request is made and if there is any question about what exhibits are to be sent in, you will be consulted so there can be agreement between you as to what exhibits are requested.

MR. FLEMING: Yes, sir.

THE COURT: All right.

(Recess)

(7:20 p.m. in open court)

(Jury present)

THE COURT: As I promised, I am going to release you until 10 o'clock in the morning.

Don't discuss the case in the meantime with your fellow jurors or anyone else. There should be no discussions of the case by any of the jurors unless all 12 of the jurors are present and participating.

Have a good evening.

(Jury excused at 7:25 p.m.)

(Adjourned to May 14, 1976 at 10 a.m.)

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Chu

WITNESS INDEX

Name	Direct	Cross	Redirect	Recross
Anthony La Rocca	1154	1157	1159	

EXHIBIT INDEX

Defendant	Identification	In Evidence
L	1107	
LA	1107	
LB	1107	
LC	1107	

UNITED STATES OF AMERICA

vs. 76 Cr. 430 (WCC)

GENE LOY CHU, et al.

May 14, 1976
10:30 a.m.

Trial resumed.

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(In open court; jury not present)

THE COURT: I received a note from the jury which has been marked Court's Exhibit 1 which reads, "Would like I-130, all marriages, wedding picture." I think there is more than one wedding picture.

MR. KINGHAM: There are two, your Honor.

THE COURT: I assume they mean both.

"Transcript (Lisa Hernandez, Gene Loy Chu)."

The reporter tells me there are some 300 pages of transcript involved in those two witnesses. The last item, that is the last item relating to the

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trial, "two personal letters."

Any dispute about which two letters are referred to?

MR. KINGHAM: I don't think so, your Honor. We have collected the exhibits. The I-130s are Exhibits 9B, 16B, 24B, 32B and 41B, the five I-130s.

The pictures are Government's Exhibits 21A and B.

The two personal letters which Mr. Fleming and I agree are the ones Brian Yeung sent to the immigration, Defendant's Exhibits F and G in evidence.

THE COURT: Is there any objection if I ask them whether they are interested in a particular part of the testimony of Lisa Hernandez and Gene Loy Chu or whether they want to hear it all?

MR. FLEMING: Your Honor, I think that is appropriate. My question would be do you want all of their testimony or do you want any particular part of their testimony.

MR. KINGHAM: I think, your Honor, something that might save an inadvertent blurting out and a discussion among the jurors in the courtroom, where it is appropriate, obviously, for them to do that, that it might be appropriate for the Court to word a note, with the

consent of counsel, to send into the jury room with the exhibits, indicting that there are some 300 pages of testimony, and if they would indicate whether or not they want the entire testimony or a portion by way of a note, that that might be more appropriate.

MR. CONCANNON: Your Honor, may I say, I don't think that the jury may understand that they can't really have the transcript itself.

THE COURT: I think that is what they probably believe. Suppose I explain it here. If there is going to be any discussion among them, I will tell them to retire to the jury room, have their discussion and come back and report. If they do want a large portion of the transcript read, would there be any objection if I don't stay here for the reading?

MR. FLEMING: No, your Honor.

MR. CONCANNON: No objection.

MR. KINGHAM: No, sir.

MR. FLEMING: We have one thing on the Hernandez transcript where the word "not" was left out.

MR. KINGHAM: There was a corrected page supplied to me and I assumed Mr. Fleming. I agree the correction should be made.

THE COURT: If counsel agree, then I certainly

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would have no objection.

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(Court's Exhibit 1 was marked)

(Jury present)

THE COURT: I have your note, and I have informed counsel about it. The exhibits that you requested have been assembled for you and Mr. Kingham will turn them over to the foreladv, all of the I-130 petitions. There are two wedding pictures, and I assume you want both.

JUROR NO. 1: Yes.

THE COURT: You will get both. Plus the two personal letters. I don't want you to answer my question here because it is improper for the jury to have a conversation out here in court, your conversations ought to be private, so I address my question merely to the forelady to answer yes or no.

You asked for the transcript apparently of the testimony of Lisa Hernandez and Gene Loy Chu. Were you under the impression that you could have the actual typewritten transcript in the jury room and is that what you really had in mind?

JUROR NO. 1: Yes, if we could.

THE COURT: You can't have the typewritten transcript in the jury room. Any part that you are

interested in can be re-read to you, but it has to be done in open court.

Just answer this yes or no. Do you understand that the jury is asking for a particular part or is interested in a particular part of the transcript or the entire transcript of the testimony of those two witnesses, which would be fairly extensive?

JUROR NO. 1: I think they really wanted the whole part.

THE COURT: That will take several hours to read. If you want to have a discussion with the jurors separately, I think it might be well for you to do that. We will excuse you for a minute. Decide whether there is a particular part you are interested in or whether you really want to hear all of that re-read. It will take several hours to re-read it all, as you may understand. Suppose you retire and discuss that.

(Jury resumed deliberations at 10:38 a.m.)

MR. KINGHAM: Your Honor, while we have a moment, I'd like to make something a matter of record. Last night when I was on the train going home, I saw Miss Borell on my commuter train and I believe she saw me, she is the forelady. We had absolutely no

conversation or contact, except that I am sure we saw each other. I just wanted to make that a matter of record.

THE COURT: As long as you have done that, I might say that as I walked out of the courthouse last night, I saw several of the jurors on the way to the subway, and I even told one of them when she found the gates barred at the first entrance to the subway that she could get into the subway through the other entrance across the street, which she did, but there was no discussion about the case.

MR. CONCANNON: Your Honor, since this is the time for confession, I very rarely have nothing to confess, but I'd like to point out that I have nothing today.

MR. KINGHAM: Your Honor, on 3500 material, I found counsel, of course, with a lot of 3500 material before the case and I prepared a list which I will get a copy of and ask to have marked as a Court's exhibit so there is a record of what I turned over beforehand. Counsel have a copy of the list too.

(Recess)

(10:58 a.m., jury present)

THE COURT: Madam Forelady, does the jury

have an answer to the question about what portions of the transcript you are interested in?

JUROR NO. 1: They want the whole thing.

THE COURT: On both of those two witnesses?

JUROR NO. 1: Yes. No, Gene Loy Chu.

THE COURT: Gene Loy Chu only?

JUROR NO. 1: Yes. The charges.

THE COURT: I have another note here, I was merely asking you about the transcript. In the first note you ask "Transcript (Lisa Hernandez, Gene Loy Chu."

JUROR NO. 1: No, no, just the charge.

THE COURT: For the record, I have received a second note which has been marked Court's Exhibit 2 and which reads "Judge's charge on conspiracy."

First I should read to you the statute on conspiracy, which is Section 371 of Title 18. If two or more persons conspire either to commit any offense against the United States or to defraud the United States or any agency thereof in any manner or for any purpose, and one or more of such persons do any act to effect the object of the conspiracy, those persons have committed a crime.

There are three elements which the government

must prove in order to establish the crime of conspiracy on the part of any of the three defendants. It must establish each of these three elements beyond a reasonable doubt.

First, it must establish the existence of a conspiracy.

Second, it must establish that the defendant in question knowingly became a member of the conspiracy.

Third, it must establish that at least one of the members of the conspiracy performed at least one of the overt acts that are charged in count 1 of the indictment.

Let's consider those individually. First, as to the existence of the conspiracy. A conspiracy may be defined as a combination of two or more persons by conserted action to accomplish some unlawful purpose. In other words, a conspiracy is merely an agreement to do something which violates the law.

Whether ornot the persons charged in the indictment accomplished what they conspired or allegedly conspired to accomplish is immaterial to the question of guilt or innocence. In other words, the conspiracy doesn't have to succeed in order to constitute a conspiracy. The crime of conspiracy is entirely

separate and distinct from the substantive offense, that is the object of the conspiracy.

Obviously, in order to be guilty of the substantive offense, you have to actually commit the act or commit the crime. But in order to be guilty of conspiracy, you don't have to complete the object of your conspiracy. You don't have to succeed. You merely have to form the conspiracy, you have to become a member of the conspiracy, knowing at least some of its unlawful objectives and at least one of the conspirators must perform at least one of the overt acts charged in pursuance of the conspiracy.

As I told you, a conspiracy doesn't require a formal agreement. It would be very surprising, indeed, if conspirators sat down and drew up a formal written agreement or sat around and specifically agreed "We are conspiring to violate the law. A, your part in the conspiracy will be thus and so, B, your function will be thus and so," and so on. That rarely, if ever, happens.

Instead, it is necessary only that the government show that by some informal agreement or understanding two or more parties reached a meeting of the minds whereby it was understood that they would accomplish certain unlawful ends. It isn't necessary that the

parties know what the law is.

In other words, they don't have to know that the specific acts that they contemplate are a violation of the law. It is only necessary that they understand that they are going to perform certain acts which are in fact a villation of the law.

The indictment charges that the conspiracy began and ended on or about certain dates. It isn't necesary for the government to prove that the conspiracy was actually formed on the beginning date and that it actually continued in operation up until the specific ending date that is alleged in the indictment.

It is sufficient if you find that a conspiracy was formed and that it existed for a substantial time within the time period set forth in the indictment and that at least one of the overt acts alleged in the indictment were committed during that period.

A conspiracy continues for as long as the evidence shows that the conspirators intended to continue it. Such intention may be inferred from their activities or the activities of other conspirators which are committed in furtherance of the purpose of the conspiracy.

The second element, as you may recall, is

voluntary and knowing participation by a particular defendant in the conspiracy, and, like all of the other elements, you must find that the particlar defendant in question knowingly and voluntarily became a member of the conspiracy. You must find that beyond a reasonable doubt.

In determining whether a particular defendant became a member of the conspiracy, you must determine not only whether he participated in it voluntarily, but also that he participated in it with knowledge of its unlawful purpose. In other words, did he join the conspiracy with an awareness of at least some of its unlawful aims and purposes.

Knowledge, of course, is a matter for inference. You can't read a person's mind or know with certainty what he is thinking, so you have to determine his knowledge and his intention by inference from the things thathe did and the things that he said.

It isn't necessary that a particular defendant know the full extent of the conspiracy and all of its activities in advance. However, mere association with the other members of the conspiracy does not make a particular defendant also a member. He has to know that there is a conspiracy, that it has certain objectives

which are unlawful, and he has to voluntarily associate himself with the conspiracy, and he must participate in at least some of its activities in furtherance of the purposes of the conspiracy.

In determining whether a particular defendant was a member of the conspiracy, you should consider only the evidence of his acts and statements. You can't find him to be a member of a conspiracy only on the basis of what others did and said.

After you find that he is a member of the conspiracy, then any acts or statements of other persons, other members of the conspiracy, made during the conspiracy and in furtherance of its purposes are chargeable against the particular defendant in question, after you found him to be a member of the conspiracy: because once you found that the conspiracy exists and you find that he is a member, then each of the other members of the conspiracy becomes in effect his agent, so that the things they do and say are chargeable against him, provided those things are done or said in furtherance of the purposes of the conspiracy and during the continuance of the conspiracy.

That is why during the trial I told you several times that evidence was being received subject

to connection, that is subject to showing that a particular defendant was a member of the conspiracy. Only in that event could the act or statement of one of the other members of the conspiracy be chargeable against that particular defendant.

The guilt of a conspirator is not measured by the extent or duration of his participation. Even if his participation is more limited than that of the other members of the conspiracy, he is equally at fault, equally guilty, as long as you found him in fact to be a conspirator.

Now let's talk about the third element of the conspiracy, and that is the overt acts. As I explained to you, the government has charged in count 1 a total of 29 overt acts which are subdivided under five different marriages.

As to the first marriage, there are a number of overt acts charged. As to the second, there are a number of other overt acts charged, for a totel of, I believe 29 overt acts, some five or six under each of the five marriages listed in count 1.

It is not necessary for you to find that all of those overt acts were committed. It is sufficient if you find that at least one of the 29 was committed by

a member of the conspiracy during the continuance of the conspiracy and in furtherance of the purposes of the conspiracy.

It isn't necessary, moreover, for you to find that the particular defendant in question participated in the particular overt act which you find was committed. It is only necessary that you find that he was a member of the conspiracy and that the particular overt act which you find was committed during the continuance of the conspiracy and in furtherance of one of its purposes.

You must also find that the overt act was committed in the Southern District of New York, which includes all of Manhattan.

A moment ago I referred to knowingly, and I think also wilfully. In order to find that the particular defendant became a member of the conspiracy, you must find that he did so knowingly and wilfully.

By knowingly, I simply mean with knowledge. In other words, not ignorantly or innocently. Wilfully simply means intentionally, purposefully, or deliberately, as distinguished from accidently or inadvertently.

If a person acts wilfully, he acts purposefully and deliberately and intentionally, with the specific objective of accomplishing something which

the law forbids.

Those are the three elements of the conspiracy: The existence of the conspiracy, the association of a particular defendant in question with the conspiracy, knowingly and wilfully, and, finally, the performance of at least one of the overt acts charged in the indictment during the continuance of and in furtherance of the objectives of the conspiracy.

Each of those three elements must be shown beyond a reasonable doubt in order for you to find a particular defendant guilty of the charge of conspiracy.

Again I remind you that you must consider the guilt or innocence of each of the three defendants separately and independently of that of the other defendants. You must find also that he was a member of the particular conspiracy that is charged in the indictment and not a member of some other conspiracy, but of this particular conspiracy. You must find, in other words, a single conspiracy involving that defendant and at least one other person.

When I refer to a single conspiracy, I don't mean that a single conspiracy cannot exist even though the scheme may involve a number of separate transactions or successive stages and even though the particular

defendant may not have participated in every stage. He still may be a member of a single conspiracy. The mere fact that the parties who participated at each stage or in connection with each marriage were not identical, that doesn't mean you don't have a single conspiracy.

You must find in order to convict a particular defendant that there was an overall conspiracy to accomplish illegal objectives and that that defendant knowingly and wilfully became a member of the conspiracy and that he or someone else who was a member of the conspiracy performed at least one of the overt acts during the continuance of and in furtherance of the objectives of the conspiracy.

The objectives of the conspiracy that is charged in count 1 is to defraud the United States in violation of Secions 1001 and 1546 of Title 18 of the U. S. Code. Defrauding the United States is not limited to cheating the government in money matters. It includes interfering with, obstructing or otherwise depriving the government of one of its lawful administrative functions by deceptive or dishonest means.

Section 1001 makes it a crime to knowingly make or use any fales writing or document in connection with matters within the jurisdiction of a federal

department or agency, knowing that the document contains such a false declaration or such false information.

Section 1546 of Title 18 makes it a crime for anyone knowingly and under oath to make any false statement with respect to a material fact in any application, affidavit or other document required by immigration laws or regulations prescribed thereunder or knowingly to prevent such an application, affidavit or other document containing the false statement, that is knowing that the document contains the false statement.

A conspiracy to defraud requires more than mere silence on the part of a particular defendant. It requires either an affirmative representation on his part or some affirmative act of concealment. Mere silence is not enough.

However, bearing in mind that once you have found that a conspiracy exists and once you have found that a particular defendant is a member of that conspiracy, then affirmative acts of the other members of the conspiracy, including affirmative declarations or misrepresentations made knowingly to the government, become the acts of all the members of the conspiracy.

Once you have found the existence of the conspiracy and have found the particular defendant

to have knowingly and wilfully associated himself with that conspiracy, then each of the members of the conspiracy becomes in effect the agent for all of the other members of the conspiracy, and their acts and declarations become the acts and declarations of all.

(In the robing room)

THE COURT: Any exceptions or suggestions?

MR. CONCANNON: Your Honor, very early in your new charge on conspiracy, you indicated that the defendants need only intend their actions and not necessarily that they knew that they are violating any law. I feel very strongly that the conspiracy charge here is one to defraud the United States, which you later indicated, in particular by violating those two sections.

I think that the defendants must certainly know, not the specific sections that thevare violating, but that they are in fact violating the law. I think as your Honor charged in the beginning of the charge this morning, that was notindicated.

THE COURT: Actually, I said the same thing in my first charge and there was no objection to it. Do you want to comment on that, Mr. Kingham?

MR. KINGHAM: I do, your Honor. I think

as a matter of fact that the proper charge there is generally what the Court gave, and, secondly, that Mr. Concannon is incorrect in one respect, and that is that the conspiracy here can be accomplished in any one of three ways, either a conspiracy to defraud or a conspiracy to violate 1001 or violating 1546. The indictment charges it that way.

The conspiracy to defraud is not necessary a conspiracy to defraud solely by the 1001 violations. The 1001 violations were merely one of the various means you mentioned to the jury in the first charge.

It seems to me that what is required on the part of a defendant in this type of a conspiracy is the charge if it is a conspiracy to defraud the United States, an intend to defraud, not necessarily knowing that defrauding the United States is a violation of the law.

THE COURT: I think that is what I mean to say. I should make it clear that there has to be an intention to defraud the United States.

MR. SPRIZZO: You didn't give that charge today which you did give yesterday. It is part of the conspiracy charge.

THE COURT: I think I said essentially the

same thing yesterday, but just to make doubly sure I will clarify that.

MR. SPRIZZO: I join in that point too, your Honor, just for the record. I think there are three objects of the conspiracy by the government's admission, and certainly the jury may find there is only a conspiracy to villate 1001.

You can't agree to that unless you know you are violating 1001, so we think that charge is erroneous. I think your Honor's charge on that issue tends to cloud the issue on intent to defraud, because I don't think you can have an intent to defraud without knowing that these marriages were unlawful under the immigration interpretation. That is basically what I have.

MR. KINGHAM: I disagree with that.

MR. FLEMING: I don't have the transcript of your Honor's charge before me from yesterday, but the charge today in some respects sounded different from the charge yestersay.

THE COURT: The charge yesterday was so long that it woule be understandable if attention lagged.

MR. FLEMING: What I am saying,your Honor, is that I felt that the charge today, in particular ways,

varied from the charge yesterday, and I think your Honor should have given the charge you gave yesterday because that's what the jury asked for.

THE COURT: I tried to give the substance. I shortened it up slightly for reasons of time, but I intended to include the identical substance that I had in the charge yesterday.

MR. FLEMING: Specifically, for example, you may have said it yesterday, but I do not recall, your Honor said intent to defraud was not limited to cheating the United States in money matters, they could cheat in other ways.

THE COURT: I said that today also.

MR. FLEMING: I didn't hear that yesterday.

THE COURT: I did say it yesterday.

MR. FLEMING: There are some other items where I would have to compare the two charges, it just sounded different to me today than yesterday.

THE COURT: There were in fact a number of different words because I didn't merely read yesterday and I didn't merely read today, but my intention was to make the substance the same, and I will clarify that there had to be an intent to deceive or defraud the United States, not merely an attempt to make statements,

but an attempt -- an intent to make misstatements which would mislead the government into granting something which it might not otherwise grant.

MR. SPRIZZO: We would suggest that your Honor give the intend to defraud section of the charge as you gave it yesterday. It should have been included and it wasn't.

THE COURT: I will give it in substance.

MR. FLEMING: With all due respect, the jury has now heard the two instructions which I think vary, with all respect, I think we have to ask for a mistrial.

THE COURT: I don't think I need to respond to that.

MR. BARRY: Just one thing I would like to say, your Honor. Since the conspiracy is an intent to violate 1001 and 1546, I feel that they are going to be confused about conspiracy as marriages and not the violation of 1001 and 1546. This is not a conspiracy of marriages, it is conspiracy to defraud the government under 1001 and 1546.

I am afraid that what may happen, if this doesn't come out, that the jury will say "All these marriages are phony and therefore they conspired," and not against 1001 and 1546.

This marriage certificate they put in might be a fraudulent document whihc we took part in.

MR. KINGHAM: We don't even have to prove any violation of 1001 or 1546 if we prove a conspiracy to defraud the United States, without regard at all to those sections, because that's the way the indictment charges.

The statute makes clear that if there is a dichotomy, there are two kinds of conspiracies you can have, one is to defraud the United States and one is to violate federal law.

The Court read that this morning and I think it is quite clear.

MR. CONCANNON: Would it really be so time consuming just to re-read that portion of the charge on intent to defraud? I think it was a significant part of the charge, not so much so in terms of time as important.

I have the impression, as I say, from the beginning of your Honor's charge, that the standard you were approaching and that you were indicating to the jury was more one of tortious type intent, if you intend the consequence of your actions.

I think from a criminal standpoint the

government must show something more than that. It has to be an intent to defraud the government.

THE COURT: I am not going to give the entire charge over again, lest we get another motion for a mistrial on the ground that I have now given a third charge.

MR. KINGHAM: I would make one request. The government certainly has no objection to having that portion of your charge as to intend to defraud read to the jury. I would suggest that that might be appropriate, to read just the portion you gave yesterday on intent to defraud.

MR. FLEMING: What is the status of the other note?

THE COURT: They want the exhibits. They don't want the transcript.

(In open court)

THE COURT: I want to clarify one thing, lest there be any misunderstanding about it.

A moment ago I said that it is not necessary for a defendant to know that he is violating a particular statute, criminal statute, of the United States when he performs certain acts. It is only necessary that he intend to perform those acts, with or without knowledge

that the criminal statutes are being violated.

I want to clarify that by emphasizing that what is charged in count 1 is a conspiracy to defraud the United States and to violate certain sections of the criminal statutes.

In order to be guilty of a conspiracy to defraud, a party must intend or misrealize that the conspiracy has as its objective defrauding the United States. In other words, he must know that representations are going to be made to the United States which are false and which are being made for the purpose of misleading and deceiving the United States into taking an action which it wouldn't otherwise take. In this case, granting permanent residency.

Or he must intend or know that affirmative acts of concealment are going to be performed for the purpose of misleading or deceiving the United States into taking such actions.

Before you can convict any defendant with respect to the offense that is charged in count 1, you must find that that defendant had a specific intent to defraud the United States Immigration and Naturalization Service.

More negligence, even gross negligence, does

not constitute an intent to defraud. You must find that the defendant with full knowledge that a false statement was being made or false testimony being given or affirmative acts of concealment being performed acquiesced in such testimony or such statement or such acts with the specific intent of defrauding the United States.

Of course, you must find this beyond a reasonable doubt.

Any further comments?

MR. CONCANNON: Nothing, your Honor.

MR. BARRY: Nothing, your Honor.

MR. KINGHAM: Nothing further, your Honor.

MR. FLEMING: The exhibits, your Honor?

THE COURT: If you will give the forelady the exhibits, please. You may retire to resume your deliberations.

(Jury resumed deliberations at 11:32 a.m.)

xxx (Court Exhibit 2 was marked)

(4:25 p.m., in open court; jury not present)

THE COURT: I am in receipt of an envelope containing several notes, which are not in any particular order.

The first one is an informal matter, "Please

close middle blind because there is a glare."

The clerk tells me he has accomplished that. I assume it refers to the middle blind here in the courtroom.

The second note reads "Complete testimony Gene Loy Chu."

The third note reads "Is there a possibility this jury would stay very late tonight? One juror has an important engagement - or will it be possible to return Monday?"

I don't know what time the juror has to leave here in order to make his important engagement. My normal time schedule would permit them to leave at about 6:30 or a quarter of 7. If he has to leave earlier than that, would there be any objection to letting them go somewhat earlier?

MR. FLEMING: What would your intention be with regard to reading the testimony? I would object to reading the testimony in two parts.

THE COURT: It is 4:30 now.

MR. KINGHAM: We flipped through the transcript earlier before, I would imagine it would take more than a couple of hours to read.

I have a suggestion, and that is that the

suggestion be put to the jury that they continue to deliberate until about 6:30. If they still want the testimony read, it can be read to them beginning Monday morning.

THE COURT: If they are going on until 6:30, it can probably be read tonight. It is 4:30 now.

MR. FLEMING: I would oppose Mr. Kingham's suggestion because I don't think we could interfere with what thejury is going.

THE COURT: If they ask for something, I think we ought to give it to them, unless there is insufficient time to give it to them in one dose.

MR. KINGHAM: That's the problem Mr. Fleming poses.

THE COURT: Apparently there is time to do that, unless one of the jurors has an overwhelming compulsion to be somewhere that requires his leaving earlier than 6:30.

MR. FLEMING: I think the testimony should be read all at once. I assume it can be read in a couple of hours. If that's atisfactory to the jury, I suggest we read it.

(Pause)

THE COURT: On a recount, the reporter

tells me that the transcript of Mr. Chu's testimony covers some 245 pages, and that he estimates it will be perhaps as much as three hours for the reading of it, and that under the circumstances it is probably best to let the jury go now. I think that everybody appears to be in agreement with that.

MR. KINGHAM: I have no objection.

MR. FLEMING: I would request that, your Honor.

THE COURT: Bring the jury out.

(Jury present)

THE COURT: I have your notes about requesting the reading of the complete testimony of Gene Loy Chu and also the question about the time we are going to recess tonight. I think those can both be answered together.

The testimony of Gene Loy Chu covers about 245 pages in the transcript and it will take approximately three hours to read it. Under the circumstances, since we want you to have it read to you in one continuous session rather than interrupting it in the middle, counsel and I have agreed that we are going to let you go now so that nobody need to worry about being late for an appointment tonight, and you can come back at 10 o'clock

Monday morning to resume your deliberations.

Have a good weekend and don't discuss the case in the meantime with anybody else.

(Jury not present)

THE COURT: The envelope containing those three notes has been marked Court's Exhibit 4.

(Court's Exhibit 4 was marked)

MR. KINGHAM: Earlier I asked the court clerk to mark Court's Exhibit 2, the record of the 3500 material turned over to counsel.

(Court adjourned.)

lhr

UNITED STATES OF AMERICA

vs. 76 Cr. 439 (WCC)

GENE LOY CHU, et al.

May 17, 1976
10:17 a.m.

Trial resumed.

- - -

(In open court; jury not present)

THE COURT: The record may note that Mr. Concannon is not here yet, even though it is 17 minutes after 10. I understood from our conversation last Friday that all counsel were agreeable to having the testimony of Gene Loy Chu read by the reporter without the Judge having to be on the bench at the time, and relying on that I scheduled another trial to begin this morning, and counsel, including the U. S. Attorney, Assistant U. S. Attorney, are waiting int he courtroom across the hall for the commencement of that trial.

I understand now that there is some question about that.

MR. KINGHAM: Your Honor, first of all, I am sorry for any misimpression that might have been caused in the Court's mind. I recall there was a reference earlier in the day inresponse to the jury's first note in which they requested the testimony of Lisa Hernandez and Gene Loy Chu, and they subsequently withdraw that note, that there was some discussion about whether or not the record can be read in the absence of the Court.

However, I don't recall that we had that discussion at the end of the day, and over the weekend and this morning I discussed this with my colleagues in the office and also with other counsel in this case, and the government would request that the Court be present during the reading of the testimony when the jury is in the courtroom.

The government's position, your Honor, is that this is a part of the trial, that there is no authority that I know of for having testimony read in a criminal case with the jury in the courtroom and the Court not present, and we would object to having it done that way.

The problem that I foresee is this: Often

during the reading of testimony, a jury will say something or the forelady will say "Stop, we have heard enough," they will ask a question, the forelady may say "Can we go and deliberate for a while and then come back," and these questions would have to be addressed to the Court.

THE COURT: I am not going to be in Afghanistan, but only across the hall where I am reachable within 30 seconds.

MR. KINGHAM: I understand that, your Honor. I still have had too many bad experiences with jurors saying things and unusual things happening during both deliberations and the reading of testimony, and the government would object to that procedure, and I hope that it hasn't caused undue inconvenience to the Court and to counsel in the other case.

I apologize for that, but I think it is absolutely essential that the Court be present during the reading of the testimony.

THE COURT: What do counsel for defendants say? Have you any objection to my absenting myself during the reading of this some three hours of testimony?

MR. FLEMING: I am concerned, your Honor,

Mr. Kingham talked about it this morning, it is a part of the trial. It may not even be waivable. In any event, I don't believe we would waive it.

THE COURT: All right. I might fight Mr. Kingham, but I am not going to fight defense counsel who have a right of appeal in such matters. I suppose we have no alternative except to tell the people in the other case.

(Recess)

THE COURT: Are we ready, gentlemen?

MR. FLEMING: Ready, your Honor.

MR. CONCANNON: Your Honor, I am supposed to be available today for the assignment of new cases. May I leave and come back during the course of the testimony being read?

THE COURT: I have been told by counsel that we are going to play this case by the book, and they are not permitting me to absentmyself, so the ansewr is no.

MR. CONCANNON: Your Honor, frankly I'd rather stay here than having to run back and forth anyway. May I at least call and make some arrangements for somebody else to cover?

THE COURT: All right. You can have two

minutes to make a phone call. My clerk will make that call for you.

(Jury present)

THE COURT: Good morning. Sorry to keepyou waiting. We had some legal matters to take care of, and we are ready to proceed with the reading of the transcript of the testimony of the defendant Gene Lov Chu.

MR. FLEMING: Your Honor, I am sorry. Mr. Sprizzo did have to appear before Judge Metzner. I hope he will return shortly.

(Record read)

THE COURT: We will take our luncheon recess now. Try and get back by five or ten minutes of two.

(Luncheon recess)

AFTERNOON SESSION
2:10 p.m.

(In open court; jury present)

(Record read)

THE COURT: You may now retire to resume your deliberations.

(Jury resumed deliberations at 3 p.m.)

(3:40 p.m., in open court; jury present)

(Court's Exhibits 5 and 6 were marked)

THE CLERK: Members of the jury, please answer present when your name is called)

(All jurors present)

THE CLERK: Madam Forelady, has the jury agreed upon a verdict?

JUROR NO. 1: Yes, your Honor.

THE CLERK: How do you find defendant Gene Loy Chu in Count 1?

JUROR NO. 1: Guilty.

THE CLERK: Count 2?

JUROR NO. 1: Guilty.

THE CLERK: Count 3?

JUROR NO. 1: Guilty.

THE CLERK: Count 4?

JUROR NO. 1: Guilty.

THE COURT: Count 5?

JUROR NO. 1: Guilty.

THE CLERK: Count 6?

JUROR NO. 1: Guilty.

THE CLERK: Count 7?

JUROR NO. 1: Guilty.

THE CLERK: Count 9?

JUROR NO. 1: Guilty.

THE CLERK: Count 10?

JUROR NO. 1: Guilty.

THE CLERK: How do you find defendant Jean Fong in Count 1?

JUROR NO. 1: Guilty.

THE CLERK: How do you find defendant Kuo Ping Yu in count 1?

JUROR NO. 1: Guilty.

THE CLERK: Members of the jury, please listen to your verdict as it now stands recorded:

You say you find defendant Gene Loy Chu guilty in count 1 through 10, inclusive. You also say you find defendant Jean Fong guilty in count 1. You also say you find defendant KuoPing Yu guilty in count 1.

So say you all?

MR. CONCANNON: Your Honor, may the jury be polled?

THE COURT: Yes. ARe all defendants going to join in that request for the poll?

MR. FLEMING: Yes, your Honor.

MR. BARRY: Yes, your Honor.

THE CLERK: Members ofthe jury,please listen to your verdict as it now stands recorded. You say you find defendant Gene Loy Chu guilty in count 1 through 10, inclusive.

You also say you find defendant Jean Fong guilty in count 1.

You also say you find defendant Kuo Ping Yu guilty in count 1.

(The jury was polled. To the question "Is that your verdict" each juror answered in the affirmative.)

THE COURT: I want to thank you for the obvious attention you paid during the trial and for your care in deliberating to reach this verdict. It isn't a pleasant thing to do, to sit in judgment on another person or group of people, particularly when it involves giving up your own personal and private business affairs, to come in and take this time, and also to

have that awesome responsibility.

In case you haven't sat on a jury before, I am sure you have a better appreciation now about how our system of justice works, and I think you realize that it couldn't function without people like yourselves who are willing to give up your own private affairs and take this time and assume this responsibility.

We areall in a debt to you, and I want to thank you very much.

I believe you already had two full weeks now, so you don't need to go back to room 109. You are discharged with the thanks of the Court.

(Jury excused)

MR. FLEMING: Your Honor, would your Honor fix a date for sentence?

THE COURT: July 1 at 9:30 a.m.

MR. FLEMING: Would Mr. Chu's status on bail be continued until that time?

MR. KINGHAM: I have no objection to the continuing of release in their own recognizance for all defendants. The government holds Mr. Chu's passport, and we would request we continue to hold that until the time of sentence.

THE COURT: I will so order.

lhr

MR. FLEMING: May we reserve our rights to make motions up to the date of sentence?

THE COURT: You may.

MR. CONCANNON: Your Honor, with respect to Jean Fong, I would like to reserve the right to make motions until that time too.

THE COURT: That will apply to all defendants.

I want to comment, incidentally, that I think the case was extremely well tried on all sides, and I want to thank counsel for the way in which matters were expe-ited. I don't think there was any wasted motion at any point during the trial, and I know that this is a great disappointment to the defendants, but it was not the fault of your counsel. You had top flight representation.

MR. CONCANNON: Thank you, your Honor.

MR. KINGHAM: Thank you, your Honor, very much.

(Court adjourned)

A 1434

UNITED STATES DEPARTMENT OF JUSTICE
Immigration and Naturalization Service

Form approved

PETITION TO CLASSIFY STATUS OF ALIEN RELATIVE FOR ISSUANCE OF IMMIGRANT VISA

Date filed
197 AUG 25 AM 3

USA 33s - 475
(ED. 4-23-71)

GOVT EXHIBIT
U. S. DIST. COURT
S. D. OF N. Y.
9B
S.D.

TO THE SECRETARY OF STATE:

The petition was filed on _____

The petition is approved for status under section:

- ☐ 201 (b) SPOUSE, CHILD
- ☐ 203 (a) (2)
- ☐ 201 (b) PARENT
- ☐ 203 (a) (4)
- ☐ 203 (a) (1)
- ☐ 203 (a) (5)

DATE OF ACTION
DD
DISTRICT

Remar

(PETITIONER IS NOT TO WRITE ABOVE THIS LINE)

1. Petition is hereby made to classify the status of the alien beneficiary for issuance of an immigrant visa as: *(Check one)*

- ☒ The spouse, child (regardless of age), parent, brother, or sister of a United States citizen.
- ☐ The spouse or unmarried child (regardless of age) of an alien lawfully admitted to the United States for permanent residence.

Block I. — Information About Alien Beneficiary

A15-484-395 7/26/73 EW

2. Name (Last, in CAPS) (First) (Middle)	3. Do Not Write in This Space	4. Relationship of beneficiary to petitioner
HU TOMMY GEE KWA	A15-484-395	Husband
5. Other names used; Married woman give maiden name: None		6. Is beneficiary related to you by adoption? No
7. Place of birth (Country): China	8. Date of birth (Month, day, year): Nov. 28, 1950	9. Beneficiary's marital status: ☒ Married ☐ Widowed ☐ Divorced ☐ Single
10. *Petitioner's* name (Last in CAPS) (First) (Middle): HU FRANCISCA TORRES	11. *Petitioner's* phone: None	12. Has this beneficiary ever been in the U.S.? ☒ Yes ☐ No

13. Name of beneficiary's spouse, if married, and date and country of birth (Omit this item if petition is for your spouse)
-

14. Names, birthdates and countries of birth of beneficiary's children, if any
None

15. Full address of beneficiary's spouse and children, if any (Omit this item if petition is for your spouse)
-

16. If this petition is for your spouse or child, give the following:

a. Date and place of your present marriage: July 19, 1973

b. Number of your prior marriages: None

c. Number of prior marriages of spouse: None

d. Last address at which you and your spouse resided together

(Apt. No.)	(Number and street)	(Town or city)	(State or Province)	(Country)	From (Month)	From (Year)	To (Month)	To (Year)
2 /	728 East 187th Street	New York	New York	U.S.A.	July	1973	Present	

17. If this petition is for a child, *(a)*. Is the child married? - *(b)* Is the child your adopted child? - If so, give the names, dates, and places of birth of all other children adopted by you. If none, so state
None

18. If this petition is for a brother or sister, are both your parents the same as the alien's parents? - If not, submit a separate statement giving full details as to parentage, dates of marriage of parents, and the number of previous marriages of each parent.

19. If separate petitions are also being submitted for other relatives, give names of each and relationship to petitioner
-

20. Have you ever filed a petition for this alien before? No If so, give place and date of filing and result:

Form I-130
(Rev. 10-1-71)Y

AUG 8 RECEIVED 1973	TRANS. IN	RET'D-TRANS. OUT	COMPLETED

A 1435

Block I — Information About Alien Beneficiary (Continued)

21. Address in the United States where beneficiary will reside (City) (State)
728 East 187th Street, Apt. 2 Bronx, New York

22. Address at which beneficiary is presently residing (No. No.) (Number and street) (Town or city) (Province or State) (Zip Code, if in U.S.)
Same

23. If beneficiary is in the United States, give the following information concerning beneficiary:

a. He last arrived in the U.S. on (Month) (Day) (Year)
April 16, 1973

b. He last arrived in U.S. as (Visitor, student, exchange alien, crewman, stowaway, etc.)
Crewman

c. Show date beneficiary's stay expired or will expire as shown on his Form I-94 or I-95:
-

d. Name and address of present employer
Peking Park Restaurant, 100 Park Avenue, New York, N

Date alien began this employment
July 1973

24. Check the appropriate box below and furnish the information required for the box checked:

☐ Beneficiary will apply for a visa abroad at the American Consulate in _____ (City in foreign country) _____ (Foreign country)

☒ Beneficiary is in the United States and will apply for adjustment of status to that of a lawful permanent resident in the Office of the Immigration and Naturalization Service at New York (City) New York (State)

If the application for adjustment of status is denied, the beneficiary will apply for a visa abroad at the American Consulate in
Newfoundland (City in foreign country) Canada (Foreign Country)

H000 T620

Block II. — Information About Petitioner

25. My name is (Last) (First) (Middle)
HU FRANCISCA TORRES

26. If you are a married woman, give your maiden name
TORRES

27. I reside in the United States at (Apt. No.) (Number and street) (Town or city) (State) (ZIP Code)
2 728 East 187th Street, Bronx, New York 10458

28. Address abroad (if any) (Number and street) (City or town) (Province) (Country)
None

29. I was born: (Month) (Day) (Year) In: (City or town) (State or Province) (Country)
October 10, 1950 Caguas Puerto Rico

30. If you are a citizen of the United States, give the following:

a. Citizenship was acquired: (Check one)

☒ through birth in the U.S. ☐ through parents ☐ through naturalization ☐ through marriage

(1) If acquired through naturalization, give name under which naturalized, number of naturalization certificate, and date and place of naturalization: _____

(2) If acquired through parentage or marriage, have you obtained a certificate of citizenship in your own name based on such acquisition? _____

(a) If so, give number of certificate and date and place of issuance:

(b) If not, submit evidence of citizenship in accordance with Instruction 3a. (2).

b. Have you or any person through whom you claim citizenship ever lost United States citizenship? No

If so, attach detailed explanation on separate sheet.

31. If you are a lawful permanent resident alien of the United States, give the following:

a. Alien Registration Number: A

b. Date, place, and means of admission for lawful permanent residence

c. Have you ever lost status as a lawful permanent resident alien? _____ If so, explain:

(If you are married to a citizen of the United States, read instruction 1b carefully)

32. Have you attached all required documents (see instruction No. 3)? ☐ YES

Block III. — Oath or Affirmation of Petitioner

I swear (affirm) that I know the contents of this petition signed by me and that the statements herein are true and correct.

Signature of petitioner (See Instruction No. 5) Francisca Torres Hu

Subscribed and sworn to (affirmed) before me this 23 day of July A.D. 1973 at New York, New York

(SEAL) My commission expires. March 30 1974 Notary Public
(Signature of officer administering oath)

Block IV. — Signature of Person Preparing Form, If Other Than Petitioner

I declare that this document was prepared by me at the request of the petitioner and is based on all information of which I have any knowledge.

(Signature) 9 Division Street, New York, NY (Address) July 23, 1973 (Date)

UNITED STATES DEPARTMENT OF JUSTICE
Immigration and Naturalization Service

A 1436

PETITION TO CLASSIFY STATUS OF ALIEN RELATIVE FOR ISSUANCE OF IMMIGRANT VISA

Mfc 4083m

Date filed
1973 AUG 10 AM 9:04

Form approved
USA. 33s - 475
(FD. 4-23-71)

Gov't
EXHIBIT
U. S. DIST. COURT
S. D. OF N. Y.
16 B
DEC 5 1976

TO THE SECRETARY OF STATE:

The petition was filed on _____

The petition is approved for status under section:

- ☐ 201 (b) SPOUSE, CHILD
- ☐ 203 (a) (2)
- ☐ 201 (b) PARENT
- ☐ 203 (a) (4)
- ☐ 203 (a) (1)
- ☐ 203 (a) (5)

DATE OF ACTION: Denied 1-31-74
DD
DISTRICT

Remarks

(PETITIONER IS NOT TO WRITE ABOVE THIS LINE)

1. Petition is hereby made to classify the status of the alien beneficiary for issuance of an immigrant visa as: *(Check one)*

E.P.

- ☒ The spouse, child (regardless of age), parent, brother, or sister of a United States citizen. A15 364 946
- ☐ The spouse or unmarried child (regardless of age) of an alien lawfully admitted to the United States for permanent residence.

F5cc

Block I. — Information About Alien Beneficiary

2. Name (Last, in CAPS) (First) (Middle)	3. Do Not Write in This Space	4. Relationship of beneficiary to petitioner
FAN WUN CHIU		Husband
5. Other names used; Married woman give maiden name		6. Is beneficiary related to you by adoption?
Michael Fan		No
7. Place of birth (Country)	8. Date of birth (Month, day, year)	9. Beneficiary's marital status:
China	July 9th, 1948	☒ Married ☐ Widowed ☐ Divorced ☐ Single
10. *Petitioner's* name (Last in CAPS) (First) (Middle)	11. *Petitioner's* phone	12. Has this beneficiary ever been in the U.S.?
FAN MILDRED MIRANDA	733-4125	☒ Yes ☐ No

13. Name of beneficiary's spouse, if married, and date and country of birth (Omit this item if petition is for your spouse)
-

14. Names, birthdates and countries of birth of beneficiary's children, if any
None

15. Full address of beneficiary's spouse and children, if any (Omit this item if petition is for your spouse)
-

16. If this petition is for your spouse or child, give the following:

a. Date and place of your present marriage: August 6, 1973

b. Number of your prior marriages: None

c. Number of prior marriages of spouse: None

d. Last address at which you and your spouse resided together

(Town or city)	(State or Province)	(Country)	(Apt. No.)	(Number and street)	From (Month)	From (Year)	To (Month)	To (Year)
Bronx,	New York,	U.S.A.	4H,	2185 Valentine Avenue	August	1973	Present	

17. If this petition is for a child, *(a)*. Is the child married? - *(b)* Is the child your adopted child? - If so, give the names, dates, and places of birth of all other children adopted by you. If none, so state
None

18. If this petition is for a brother or sister, are both your parents the same as the alien's parents? - If not, submit a separate statement giving full details as to parentage, dates of marriage of parents, and the number of previous marriages of each parent.

19. If separate petitions are also being submitted for other relatives, give names of each and relationship to petitioner
None

20. Have you ever filed a petition for this alien before? No If so, give place and date of filing and result:

Form I-130
(Rev. 10-1-71)Y

RECEIVED	TRANS. IN	RET'D-TRANS. OUT	COMPLETED
AUG 2 1973			

A 1437

Block I. — Information About Alien Beneficiary (Continued)

e United States where beneficiary will reside (City) (State)
lentine Avenue, Bronx, New York

hich beneficiary is presently residing (Apt. No.) (Number and street) (Town or city) (Province or State) (Zip Code, If in U.S.)
5 Valentine Avenue, Bronx, New York, U.S.A. 10457

y is in the United States, give the following information concerning beneficiary:

ved in the U.S. on (Day) (Year)
5, 1972

b. He last arrived in U.S. as (Visitor, student, exchange alien, crewman, stowaway, etc.)
Seaman

c. Show date beneficiary's stay expired or will expire as shown on his Form I-94 or I-95:

dress of present employer
n Sportswear Inc. 247 Canal Street, NYC

e. Date alien began this employment
July 1973

propriate box below and furnish the information required for the box checked:

Beneficiary will apply for a visa abroad at the American Consulate in. (City in foreign country) (Foreign country)

Beneficiary is in the United States and will apply for adjustment of status to that of a lawful permanent resident in the Office of the Immigration and Naturalization Service at New York (City) New York (State)

If the application for adjustment of status is denied, the beneficiary will apply for a visa abroad at the American Consulate in
Newfoundland (City in foreign country) Canada (Foreign Country)

M653 SX 8-14-73

Block II — Information About Petitioner

(Last) (First) (Middle)
MILDRED MIRANDA

26. If you are a married woman, give your maiden name
Mildred Miranda

e United States at (Apt. No.) (Number and street) (Town or city) (State) (ZIP Code)
5 Valentine Avenue Bronx, New York New York 10457

ad (if any) (Number and street) (City or town) (Province) (Country)
one

(Month) (Day) (Year) In: (City or town) (State or Province) (Country)
19, 1951 Santurce Puerto Rico

itizen of the United States, give the following:
p was acquired: (Check one)

gh birth in the U.S. ☐ through parents ☐ through naturalization ☐ through marriage

cquired through naturalization, give name under which naturalized, number of naturalization certificate, and date and place of naturalization:

cquired through parentage or marriage, have you obtained a certificate of citizenship in your own name based on such acquisition?

(a) If so, give number of certificate and date and place of issuance:

(b) If not, submit evidence of citizenship in accordance with Instruction 3a. (2).

or any person through whom you claim citizenship ever lost United States citizenship? No
detailed explanation on separate sheet.

lawful permanent resident alien of the United States, give the following:

gistration Number: b. Date, place, and means of admission for lawful permanent residence

ever lost status as a lawful permanent resident alien? If so, explain:

(If you are married to a citizen of the United States, read instruction 1b carefully)

ttached all required documents (see instruction No. 3)? ☐ YES

Block III. — Oath or Affirmation of Petitioner

(affirm) that I know the contents of this petition signed by me and that the statements therein are true and correct.

Signature of petitioner (See Instruction No. 5) Mildred Miranda

ibed and sworn to (affirmed) before me this 8 day of August A.D. 19 73, at New York, New York

My commission expires. March 30, 1974 (Signature of officer administering oath) Notary Public (Title) Notary Public, State of New York No. 31-5099565 Qualified in New York County

Block IV. — Signature of Person Preparing Form, If Other Than Petitioner

eclare that this document was prepared by me at the request of the petitioner and is based on all information of which I have e.

(Signature) 9 Division Street, New York, New York (Address) 8-8-73 (Date)

A 1438

UNITED STATES DEPARTMENT OF JUSTICE
Immigration and Naturalization Service

PETITION TO CLASSIFY STATUS OF ALIEN RELATIVE FOR ISSUANCE OF IMMIGRANT VISA

Form approved
OMB No. 43-R0401

Date filed
N.Y. MAIL UNIT
1973 AUG 21 AM 9:33

Fee stamp
NYC(M)-5487

TO THE SECRETARY OF STATE:

The petition was filed on

The petition is approved for status under section:

- ☐ 201 (b) SPOUSE, CHILD
- ☐ 203 (a) (2)
- ☐ 201 (b) PARENT
- ☐ 203 (a) (4)
- ☐ 203 (a) (1)
- ☐ 203 (a) (5)

DATE OF ACTION

DD

DISTRICT

Remarks

USA 33a - 475
(ED. 4-23-71)

GOVT EXHIBIT
U. S. DIST. COURT
S. D. OF N. Y.
24B
MAY 6 1976

(PETITIONER IS NOT TO WRITE ABOVE THIS LINE)

1. Petition is hereby made to classify the status of the alien beneficiary for issuance of an immigrant visa

- ☒ The spouse, child (regardless of age), parent, brother, or sister of a United States citizen.
- ☐ The spouse or unmarried child (regardless of age) of an alien lawfully admitted to the United

J-300

Block 2 — Information About Alien Beneficiary

2. Name (Last, in CAPS)	(First)	(Middle)	Do Not Write in This Space	4. Relationship of beneficiary to petitioner
JOUT	JAN	JONG	A29119340	Husband

5. Other names used; Married woman give maiden name: Kin Chong Chiu & Joseph Jout

6. Is beneficiary related to you by adoption? No

7. Place of birth (Country): China

8. Date of birth (Month, day, year): August 15, 1942

9. Beneficiary's marital status: ☒ Married ☐ Widowed ☐ Divorced ☐ Single

10. *Petitioner's* name (Last, in CAPS)	(First)	(Middle)	11. *Petitioner's* phone	12. Has this beneficiary ever been in the U.S.?
JOUT	CARMEN	MIRANDA	672-1264	☒ Yes ☐ No

13. Name of beneficiary's spouse, if married, and date and country of birth (Omit this item if petition is for your spouse): -

14. Names, birthdates and countries of birth of beneficiary's children, if any: None

15. Full address of beneficiary's spouse and children, if any (Omit this item if petition is for your spouse): -

16. If this petition is for your spouse or child, give the following:

a. Date and place of your present marriage: August 17, 1973 New York, NY

b. Number of your prior marriages: None

c. Number of prior marriages of spouse: None

d. Last address at which you and your spouse resided together

(Town or city)	(State or Province)	(Country)	(Apt. No.)	(Number and street)	From (Month)	From (Year)	To (Month)	To (Year)
Jackson Heights,	New York,	USA		32-49 86th Street	Aug.	1973	present	

17. If this petition is for a child, (a). Is the child married? - (b) Is the child your adopted child? - If so, give the names, dates, and places of birth of all other children adopted by you. If none, so state

18. If this petition is for a brother or sister, are both your parents the same as the alien's parents? - If not, submit a separate statement giving full details as to parentage, dates of marriage of parents, and the number of previous marriages of each parent.

19. If separate petitions are also being submitted for other relatives, give names of each and relationship to petitioner: None

20. Have you ever filed a petition for this alien before? No If so, give place and date of filing and result

Form I-130
(Rev. 10-1-71)Y

RECEIVED	TRANSMITTED	RET'D-TRANS. OUT	COMPLETED
SEP 13 1973	JAN 16 1974 FEB		

BEST COPY AVAILABLE

Block I. — Information About Alien Beneficiary (Continued)

21. Address in the United States where beneficiary will reside (City) (State) A 1439,
32-49 86th Street Jackson Heights, New York

22. Address at which beneficiary is presently residing (Apt. No.) (Number and street) (Town or city) (Province or State) (Zip Code, If in U.S.)
Same as above

23. If beneficiary is in the United States, give the following information concerning beneficiary:

a. He last arrived in the U.S. on (Month) (Day) (Year)
July 26, 1973

b. He last arrived in U.S. as (Visitor, student, exchange alien, crewman, stowaway, etc.)
Visitor

c. Show date beneficiary's stay expired or will expire as shown on his Form I-94 or I-95:
Aug. 26, 1973

d. Name and address of present employer
Hunan Yuan, Third Ave., New York, New York

e. Date alien began this employment
Aug. 20, 1973

24. Check the appropriate box below and furnish the information required for the box checked:

☐ Beneficiary will apply for a visa abroad at the American Consulate in _____ (City in foreign country) (Foreign country)

☒ Beneficiary is in the United States and will apply for adjustment of status to that of a lawful permanent resident in the Office of the Immigration and Naturalization Service at New York (City) New York (State)

If the application for adjustment of status is denied, the beneficiary will apply for a visa abroad at the American Consulate in
Newfoundland, (City in foreign country) Canada (Foreign Country)

V300

Block II. — Information About Petitioner

25. My name is (Last) (First) (Middle)
JOUT CARMEN MIRANDA

26. If you are a married woman, give your maiden name
CARMEN MIRANDA

27. I reside in the United States at (Apt. No.) (Number and street) (Town or city) (State) (ZIP Code)
32-49 86th Street, Jackson Heights, New York

28. Address abroad (if any) (Number and street) (City or town) (Province) (Country)
None

29. I was born: (Month) (Day) (Year) In: (City or town) (State or Province) (Country)
July 4, 1948 Santurce Puerto Rico

30. If you are a citizen of the United States, give the following:

a. Citizenship was acquired: (Check one)

☒ through birth in the U.S. ☐ through parents ☐ through naturalization ☐ through marriage

(1) If acquired through naturalization, give name under which naturalized, number of naturalization certificate, and date and place of naturalization:

(2) If acquired through parentage or marriage, have you obtained a certificate of citizenship in your own name based on such acquisition?

(a) If so, give number of certificate and date and place of issuance:

(b) If not, submit evidence of citizenship in accordance with Instruction 3a. (2).

b. Have you or any person through whom you claim citizenship ever lost United States citizenship? No

If so, attach detailed explanation on separate sheet.

31. If you are a lawful permanent resident alien of the United States, give the following:

a. Alien Registration Number:
A

b. Date, place, and means of admission for lawful permanent residence

c. Have you ever lost status as a lawful permanent resident alien? _____ If so, explain:

(If you are married to a citizen of the United States, read instruction 1b carefully)

32. Have you attached all required documents (see instruction No. 3)? ☒ YES

Block III. — Oath or Affirmation of Petitioner

I swear (affirm) that I know the contents of this petition signed by me and that the statements herein are true and correct.

Signature of petitioner (See Instruction No. 5) ✓ Carmen Miranda Jout

Subscribed and sworn to (affirmed) before me this 20 day of Aug. 19 73 in New York, NY

(SEAL) My commission expires Mar. 30, 1974 (Signature of officer administering oath) EUGENE LOY CHU Notary Public (Qualified in New York County)

Block IV. — Signature of Person Preparing Form, If Other Than Petitioner

I declare that this document was prepared by me at the request of the petitioner and is based on all information of which I have any knowledge.

(Signature) 9 Division Street, New York, NY (Address) Aug. 20, 1973 (Date)

A 1440

UNITED STATES DEPARTMENT OF JUSTICE
Immigration and Naturalization Service

Form approved
OMB No. 43-R0491

PETITION TO CLASSIFY STATUS OF ALIEN RELATIVE FOR ISSUANCE OF IMMIGRANT VISA

Date filed
RECEIVED
INFORMATION
NOV - 9 1973

Fee stamp

USA 33s - 475
(ED. 4-23-71)

9 OUT
EXHIBIT
U. S. DIST. COURT
S. D. OF N. Y.
32B

TO THE SECRETARY OF STATE

The petition was filed on _____

The petition is approved for status under section:

- ☐ 201 (b) SPOUSE, CHILD
- ☐ 203 (a) (2)
- ☐ 201 (b) PARENT
- ☐ 203 (a) (4)
- ☐ 203 (a) (1)
- ☐ 203 (a) (5)

DATE OF ACTION
DD
DISTRICT

Remarks

(PETITIONER IS NOT TO WRITE ABOVE THIS LINE)

1. Petition is hereby made to classify the status of the alien beneficiary for issuance of an immigrant visa

- ☒ The spouse, child (regardless of age), parent, brother, or sister of a United States citizen.
- ☐ The spouse or unmarried child (regardless of age) of an alien lawfully admitted to the United States for permanent residence.

SX 11-12-73 J. M.

IC520

Block I. — Information About Alien Beneficiary

2. Name (Last, in CAPS)	(First)	(Middle)	3. Do Not Write in This Space	4. Relationship of beneficiary to petitioner
CHANG	YUNG	KANG	[illegible] A16-324-476	Husband

5. Other names used; Married woman give maiden name: None

6. Is beneficiary related to you by adoption? No

7. Place of birth (Country)	8. Date of birth (Month, day, year)	9. Beneficiary's marital status:
China	May 6, 1949	☒ Married ☐ Widowed ☐ Divorced ☐ Single

10. *Petitioner's* name (Last in CAPS)	(First)	(Middle)	11. *Petitioner's* phone	12. Has this beneficiary ever been in the U.S.?
CHANG	ELIZABETH		288-9531	☒ Yes ☐ No

13. Name of beneficiary's spouse, if married, and date and country of birth (Omit this item if petition is for your spouse)
-

14. Names, birthdates and countries of birth of beneficiary's children, if any
None

15. Full address of beneficiary's spouse and children, if any (Omit this item if petition is for your spouse)
-

16. If this petition is for your spouse or child, give the following:

a. Date and place of your present marriage	b. Number of your prior marriages	c. Number of prior marriages of spouse
Nov. 8, 1973 New York, NY	None	None

d. Last address at which you and your spouse resided together

(Town or city)	(State or Province)	(Country)	(Apt. No.)	(Number and street)	From (Month) (Year)	To (Month) (Year)
New York	New York	U.S.A.	3B	511 E. 80th St.	Nov 1973	Prese

17. If this petition is for a child, (a). Is the child married? - (b) Is the child your adopted child? - If so, give the names, dates, and places of birth of all other children adopted by you. If none, so state
None

18. If this petition is for a brother or sister, are both your parents the same as the alien's parents? - If not, submit a separate statement giving full details as to parentage, dates of marriage of parents, and the number of previous marriages of each parent.

19. If separate petitions are also being submitted for other relatives, give names of each and relationship to petitioner
None

20. Have you ever filed a petition for this alien before? No If so, give place and date of filing and result:

Form I-130
(Rev. 10-1-71)Y

RECEIVED	TRANS. IN	RET'D-TRANS. OUT	COMPLETED
NOV 13 1973	JUL 2 1974		

Block I. — Information About Alien Beneficiary (Continued) A 1441

21. Address in the United States where beneficiary will reside: 511 East 80th Street, New York (City): New York (State):

22. Address at which beneficiary is presently residing (Apt. No.) (Number and street) (Town or city) (Province or State) (Zip Code, if in U.S.): 511 East 80th Street, New York 3B New York U.S.A. 10021

23. If beneficiary is in the United States, give the following information concerning beneficiary:

a. He last arrived in the U.S. on (Month) (Day) (Year): June 27, 1972

b. He last arrived in U.S. as (Visitor, student, exchange alien, crewman, stowaway, etc.): Crewman

c. Show date beneficiary's stay expired or will expire as shown on his Form I-94 or I-95: -

d. Name and address of present employer: Lantern Light Restaurant, 801 Second Ave., NYC

e. Date alien began this employm: Sept. 1972

24. Check the appropriate box below and furnish the information required for the box checked:

[X] Beneficiary will apply for a visa abroad at the American Consulate in Montreal, Canada (City in foreign country) (Foreign country)

[ ] Beneficiary is in the United States and will apply for adjustment of status to that of a lawful permanent resident in the Office of the Immigration and Naturalization Service at _____ (City) _____ (State)

If the application for adjustment of status is denied, the beneficiary will apply for a visa abroad at the American Counsulate in

_____ (City in foreign country) _____ (Foreign Country)

IC520 H-655T

Block II. — Information About Petitioner SX 11-12-73 T.S.

25. My name is (Last) CHANG (First) ELIZABETH (Middle)

26. If you are a married woman, give your maiden name: Elizabeth Hernandez

27. I reside in the United States at (Apt. No.) (Number and street) (Town or city) (State) (ZIP Code): 511 East 80th Street New York, New York

28. Address abroad (if any) (Number and street) (City or town) (Province) (Country): None

29. I was born: (Month) (Day) (Year) November 12, 1952 In: (City or town) New York (State or Province) New York (Country) U.S.A.

30. If you are a citizen of the United States, give the following:

a. Citizenship was acquired: (Check one)

[X] through birth in the U.S. [ ] through parents [ ] through naturalization [ ] through marriage

(1) If acquired through naturalization, give name under which naturalized, number of naturalization certificate, and date and place of naturalization: _____

(2) If acquired through parentage or marriage, have you obtained a certificate of citizenship in your own name based on such acquisition? _____

(a) If so, give number of certificate and date and place of issuance.

(b) If not, submit evidence of citizenship in accordance with Instruction 3a. (2).

b. Have you or any person through whom you claim citizenship ever lost United States citizenship? No

If so, attach detailed explanation on separate sheet.

31. If you are a lawful permanent resident alien of the United States, give the following:

a. Alien Registration Number: A

b. Date, place, and means of admission for lawful permanent residence

c. Have you ever lost status as a lawful permanent resident alien? _____ If so, explain:

(If you married to a citizen of the United States, read instruction 1b carefully)

32. Have you attached all required documents (see instruction No. 3)? [X] YES

Block III. — Oath or Affirmation of Petitioner

I swear (affirm) that I know the contents of this petition signed by me and that the statements herein are true and correct.

Signature of petitioner (See Instruction No. 6) Elizabeth Chang

Subscribed and sworn to (affirmed) before me this 8 day of Nov. 19 73 New York, New York

(SEAL) My commission expires Mar. 30, 1974 (Signature of officer administering oath) Notary Public

GENE LOY Notary Public, State of New York No. 31-5693305 Qualified in New York County Commission Expires March 30, 1974

Block IV. — Signature of Person Preparing Form If Other Than Petitioner

I declare that this document was prepared by me at the request of the petitioner and is based on all information of which I have any knowledge.

(Signature) 9 Division Street, New York, NY (Address) 11-8-73 (Date)

A 1442

UNITED STATES DEPARTMENT OF JUSTICE
Immigration and Naturalization Service

PETITION TO CLASSIFY STATUS OF ALIEN RELATIVE FOR ISSUANCE OF IMMIGRANT VISA

Date filed	

USA 336 - 475
(ED. 4-23-71)

GOV'T EXHIBIT
U. S. DIST. COURT
S. D. OF N. Y.
41 B
MAY 11 1978

TO THE SECRETARY OF STATE:

The petition was filed on _____

The petition is approved for status under section:

- ☐ 201 (b) SPOUSE, CHILD
- ☐ 201 (b) PARENT
- ☐ 203 (a) (1)
- ☐ 203 (a) (2)
- ☐ 203 (a) (4)
- ☐ 203 (a) (5)

DATE OF ACTION
DD
DISTRICT

Remark

(PETITIONER IS NOT TO WRITE ABOVE THIS LINE)

1. Petition is hereby made to classify the status of the alien beneficiary for issuance of an immigrant visa as: *(Check one)*

- ☒ The spouse, child (regardless of age), parent, brother, or sister of a United States citizen.
- ☐ The spouse or unmarried child (regardless of age) of an alien lawfully admitted to the United States for permanent residence.

A16007950
2-6-74 PT

V520

Block 2 — Information About Alien Beneficiary

2. Name (Last, in CAPS) (First) (Middle)	3. Do Not Write in This Space	4. Relationship of beneficiary to petitioner
YEUNG YAU CHOY	A16007-950	Husband
5. Other names used; Married woman give maiden name		6. Is beneficiary related to you by adoption?
BRIAN YEUNG SS # 070-50-3932 Brian Young		No
7. Place of birth (Country)	8. Date of birth (Month, day, year)	9. Beneficiary's marital status
Hong Kong	November 22, 1946	☒ Married ☐ Widowed ☐ Divorced ☐ Single
10. *Petitioner's* name (Last in CAPS) (First) (Middle)	11. *Petitioner's* phone	12. Has this beneficiary ever been in the U.S.?
YEUNG IMGARD VERONICA	None	☒ Yes ☐ No

13. Name of beneficiary's spouse, if married, and date and country of birth (Omit this item if petition is for your spouse)
-

14. Names, birthdates and countries of birth of beneficiary's children, if any
None

15. Full address of beneficiary's spouse and children, if any (Omit this item if petition is for your spouse)
-

RECEIVED
APR 29 1974
TRAVEL CONTROL

16. If this petition is for your spouse or child, give the following:

a. Date and place of your present marriage	b. Number of your prior marriages	c. Number of prior marriages of spouse
Jan. 29, 1974 New York, NY	None	None

d. Last address at which you and your spouse resided together

(Town or city)	(State or Province)	(Country)	(Apt. No.)	(Number and street)	From (Month)	(Year)	To (Month)	(Year)
Bronx New York,	New York	USA	6A	2185 Valentine Ave.	Jan.	1974	Present	

17. If this petition is for a child, *(a)*. Is the child married? - *(b)* Is the child your adopted child? - If so, give the names, dates, and places of birth of all other children adopted by you. If none, so state

18. If this petition is for a brother or sister, are both your parents the same as the alien's parents? - If not, submit a separate statement giving full details as to parentage, dates of marriage of parents, and the number of previous marriages of each parent.

19. If separate petitions are also being submitted for other relatives, give names of each and relationship to petitioner
None

20. Have you ever filed a petition for this alien before? No If so, give place and date of filing and result:

Form I-130
(Rev. 10-1-71)Y

RECEIVED	TRANS. IN	RET'D-TRANS. OUT	COMPLETED
FEB 13 1974	AUG		

A 1443

Block I. — Information About Alien Beneficiary (Continued)

21: Address in the United States where beneficiary will reside (City) (State)
2185 Valentine Avenue, Bronx, New York

22. Address at which beneficiary is presently residing (Apt. No.) (Number and street) (Town or city) (Province or State) (Zip Code, If in U.S.)
2185 Valentine Avenue, Bronx, New York 10457

23. If beneficiary is in the United States, give the following information concerning beneficiary:

a. He last arrived in the U.S. on (Month) (Day) (Year)	b. He last arrived in U.S. as (Visitor, student, exchange alien, crewman, stowaway, etc.)	c. Show date beneficiary's stay expired or will expire as shown on his Form I-94 or I-95:
May 22, 1973	Seaman	-

d. Name and address of present employer	e. Date alien began this employment
Cobb's Mill Inn, Weston, Westport, Connecticut	May 1973

24. Check the appropriate box below and furnish the information required for the box checked:

☐ Beneficiary will apply for a visa abroad at the American Consulate in _____ (City in foreign country) (Foreign country)

☒ Beneficiary is in the United States and will apply for adjustment of status to that of a lawful permanent resident in the Office of the Immigration and Naturalization Service at New York (City) New York (State)

If the application for adjustment of status is denied, the beneficiary will apply for a visa abroad at the American Consulate in Montreal (City in foreign country) Canada (Foreign Country) SX 2/6/74 AT

Y550 C620

Block II. — Information About Petitioner SS# 062-44-2894

25. My name is (Last)	(First)	(Middle)	26. If you are a married woman, give your maiden name
YEUNG	IMGARD	VERONICA	Imgard Veronica Cruz

27. I reside in the United States at (Apt. No.) (Number and street) (Town or city) (State) (ZIP Code)
6A 2185 Valentine Avenue Bronx New Yor 10457

28. Address abroad (if any) (Number and street) (City or town) (Province) (Country)
None

29. I was born: (Month) (Day) (Year) In: (City or town) (State or Province) (Country)
July 1, 1952 Brooklyn New York New York U.S.A.

30. If you are a citizen of the United States, give the following:

a. Citizenship was acquired: (Check one)

☒ through birth in the U.S. ☐ through parents ☐ through naturalization ☐ through marriage

(1) If acquired through naturalization, give name under which naturalized, number of naturalization certificate, and date and place of naturalization: _____

(2) If acquired through parentage or marriage, have you obtained a certificate of citizenship in your own name based on such acquisition? _____

(a) If so, give number of certificate and date and place of issuance:

(b) If not, submit evidence of citizenship in accordance with Instruction 3a. (2).

b. Have you or any person through whom you claim citizenship ever lost United States citizenship? No

If so, attach detailed explanation on separate sheet.

31. If you are a lawful permanent resident alien of the United States, give the following:

a. Alien Registration Number: A

b. Date, place, and means of admission for lawful permanent residence

c. Have you ever lost status as a lawful permanent resident alien? _____ If so, explain:

(If you are married to a citizen of the United States, read instruction 1b carefully)

32. Have you attached all required documents (see instruction No. 3)? ☐ YES

Block III. — Oath or Affirmation of Petitioner

I swear (affirm) that I know the contents of this petition signed by me and that the statements herein are true and correct.

Signature of petitioner (See Instruction No. 5) Imgard Yeung

Subscribed and sworn to (affirmed) before me this 1 day of [illegible] A.D. 19[illegible], at New York, New York

(SEAL) My commission expires March 30, 1974 Notary Public

(Signature of officer administering oath)

GEORGE LOY CHU
Notary Public, State of New York
No. 31-5693365
Qualified in Queens County
Commission Expires March 30, 1974

Block IV. — Signature of Person Preparing Form, If Other Than Petitioner

I declare that this document was prepared by me at the request of the petitioner and is based on all information of which I have any knowledge.

(Signature) 9 Division Street, New York, New York (Address) Feb. 1, 1974 (Date)

CBS TELEVISION NETWORK
CBS EVENING NEWS WITH DAN RATHER (Excerpt) 5/8/76

RATHER: The 39-day-long San Francisco craft union strike is over, for now anyway. That's the strike which stopped San Francisco's transportation system. A fact-finding panel will figure out pay scales while the workers go back to work. That means transit workers who were on honoring the strike will go back, too, and that means the buses and cable cars roll again.

And a tentative agreement was reached today to end the 38-day-old strike by NBC technicians and news writers. The new proposed contract must still be ratified by union members. Its details were not revealed.

Strikes continue in another other labor disputes, those involving the United Rubber Workers against four big tire producers, the beer bottlers who work for Anheuser-Busch, teamsters who work for United Parcel Service in 13 midwestern and western states, and apartment house workers in New York City.

Well, the United States is considered such a great place to get a new start in life, foreigners have been trying just about anything to get here, to the concern of U. S. Immigration officials. Bernard Goldberg reports.

BERNARD GOLDBERG: For many aliens from Latin America and the Caribbean, the United States is more than a nice place to visit. It's a nice place to live. But getting into the U.S. to stay is a long, complicated process — the aliens trying to convince officials they won't wind up on welfare, and won't take jobs away from U. S. citizens. Even then, because of quotas, there is a long wait, about two-and-a-half years. But there is a much quicker way: Marry a U. S. citizen. Some aliens, desperate to escape the poverty of their homelands, are actually marrying people they don't even know - paying virtual strangers to marry them, just to get themselves and their families into the United States.

Stuart Markus, a Miami attorney, who deals in immigration cases.

STUART MARKUS: They get married. They never live together. They never cohabitate together. They never do anything together, and then they get divorced.

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GOLDBERG: Officials say the bogus marriage boon is a national problem, putting a burden on the tax-paying public - the aliens taking jobs away from U. S. citizens often by working for a lower wage, and collecting on the whole range of social services, food stamps, welfare, hospital care. There are even marriage brokers, who for a fee will find a U. S. citizen to marry the alien. The broker gets paid, the U. S. citizen gets paid, and the alien hopes to get a permanent resident visa.

RUTH ZAVOLI [fraud expert, U. S. Immigration Department]: One of the reasons we have to ask you all these questions is because people have been buying husbands and wives for the primary purpose of staying here.

GOLDBERG: Ruth Zavoli is the Immigration Department's fraud expert in Miami. She investigates more than 100 cases a month of aliens trying to gain permanent resident status. Most of the cases she says are frauds.

ZAVOLI: We had a person who is a foreign alien, illegally in the United States, and she was a practicing prostitute, and one of her clients was an American crewman. And for services, unpaid services, he agreed to go through a marriage ceremony to help her get her resident visa.

GOLDBERG: How many people came in as a result of that marriage?

ZAVOLI: As far as we -- to the best of our knowledge, about 34.

GOLDBERG: This twenty-one-year-old Miami woman is in shadows because she does not want to be identified. After being investigated by Federal authorities, she gave immigration officials a sworn statement saying she married a alien for $500.

MIAMI WOMAN [unidentified]: I'm working in a massage parlor right now. At the time I met this man, I was a hooker.

GOLDBERG: Prostitute?

WOMAN: Right. And wanted to live in the United States. Procedures were done. We got married.

GOLDGERG: One reason the phoney marriage phenomenon is that not only are quicky marriages easy to arrange; so are quicky no-fault divorces. For some aliens, a fraudulent marriage is the easiest way to get into the country, if they don't get caught. They could

A 1446

get five years in a Federal prison if they do.
— Bernard Goldberg, CBS News, Miami.

RATHER: Some 50 recovered alcoholics, many of them well-known public figures, became even more public today, as they brought their alcoholism out of the closet. Their forum was a Washington news conference sponsored by the National Council on Alcoholism. Marya McLaughlin was there.

MARYA McLAUGHLIN: They were gathered together to announce publicly they were alcoholics, recovered to be sure - hoping to remove the stigma from alcoholism, to make people realize that it is a disease, and to dispell once and for all the myth that alcoholism is something which does not happen to nice people. They came from all fields of endeavor TV star Dick Van Dyke, movie star Dana Andrews, actress Mercedes McCambridge, former Senator Harold Hughes, Congressman Wilbur Mills, singer Guy Mitchell and Edwin "Buzz" Aldrin, the second man to set foot on the moon.

EDWIN "BUZZ ALDRIN: I wrote the story of my depression in a two-year period following Apollo 11 landing. I didn't think I had a drinking problem at all. However, when I was admitted to a hospital last August, it was quite evident to the people there who read the book that they could identify insipient alcoholism back early in my life.

McLAUGHLIN: Going public seemed to put the participants in a very good humor, like comedian Garry Moore.

GARRY MOORE: This doesn't make me uncomfortable at all. As a matter of fact it makes me, if anything, jubilant - because for a long time, all of us stayed in the closet. Unfortunately, you're picking those of us who have, shall I say, somewhat familar faces up here. But we have with us doctors, engineers, people from the service, people from the clergy. So, no, I'm not uncomfortable. I'm-- I'm-- matter of fact, I think it's a great day. I think it's a great step forward for us.

McLAUGHLIN: These alcoholics insist on being called recovered, not reformed, because they say reformed means they did something bad. And being sick is not being bad.
—Marya McLaughlin, CBS News, Washington.